59-7-101. Definitions.

As used in this chapter:

(1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105 and 59-7-106.

(2) (a) "Affiliated group" means one or more chains of corporations that are connected through stock ownership with a common parent corporation that meet the following requirements:

(i) at least 80% of the stock of each of the corporations in the group, excluding the common parent corporation, is owned by one or more of the other corporations in the group; and

(ii) the common parent directly owns at least 80% of the stock of at least one of the corporations in the group.

(b) "Affiliated group" does not include corporations that are qualified to do business but are not otherwise doing business in this state.

(c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(3) "Apportionable income" means adjusted income less nonbusiness income net of related expenses, to the extent included in adjusted income.

(4) "Apportioned income" means apportionable income multiplied by the apportionment fraction as determined in Section 59-7-311.

(5) "Business income" is as defined in Section 59-7-302.

(6) (a) "Captive real estate investment trust" means a real estate investment trust if:

(i) the shares or beneficial interests of the real estate investment trust are not regularly traded on an established securities market; and

(ii) more than 50% of the voting power or value of the shares or beneficial interests of the real estate investment trust are directly, indirectly, or constructively:

(A) owned by a controlling entity of the real estate investment trust; or

(B) controlled by a controlling entity of the real estate investment trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(7) (a) "Common ownership" means the direct or indirect control or ownership of more than 50% of the outstanding voting stock of:

(i) a parent-subsidiary controlled group as defined in Section 1563, Internal Revenue Code, except that 50% shall be substituted for 80%;

(ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue Code; or

(iii) three or more corporations each of which is a member of a group of corporations described in Subsection (2)(a)(i) or (ii), and one of which is:

(A) a common parent corporation included in a group of corporations described in Subsection (2)(a)(i); and

(B) included in a group of corporations described in Subsection (2)(a)(ii).

(b) Ownership of outstanding voting stock shall be determined by Section 1563, Internal Revenue Code.

(8) (a) "Controlling entity of a captive real estate investment trust" means an

entity that:

(i) is treated as an association taxable as a corporation under the Internal Revenue Code;

(ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue Code; and

(iii) directly, indirectly, or constructively holds more than 50% of:

(A) the voting power of a captive real estate investment trust; or

(B) the value of the shares or beneficial interests of a captive real estate investment trust.

(b) "Controlling entity of a captive real estate investment trust" does not include:

(i) a real estate investment trust, except for a captive real estate investment trust;

(ii) a qualified real estate investment subsidiary described in Section 856(i), Internal Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real estate investment trust; or

(iii) a foreign real estate investment trust.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(9) "Corporate return" or "return" includes a combined report.

(10) "Corporation" includes:

(a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue Code; and

(b) other organizations that are taxed as corporations for federal income tax purposes under the Internal Revenue Code.

(11) "Dividend" means any distribution, including money or other type of property, made by a corporation to its shareholders out of its earnings or profits accumulated after December 31, 1930.

(12) (a) "Doing business" includes any transaction in the course of its business by a domestic corporation, or by a foreign corporation qualified to do or doing intrastate business in this state.

(b) Except as provided in Subsection 59-7-102(3), "doing business" includes:

(i) the right to do business through incorporation or qualification;

(ii) the owning, renting, or leasing of real or personal property within this state; and

(iii) the participation in joint ventures, working and operating agreements, the performance of which takes place in this state.

(13) "Domestic corporation" means a corporation that is incorporated or organized under the laws of this state.

(14) (a) "Farmers' cooperative" means an association, corporation, or other organization that is:

(i) (A) an association, corporation, or other organization of:

(I) farmers; or

(II) fruit growers; or

(B) an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection (14)(a)(i)(A); and

(ii) organized and operated on a cooperative basis to:

(A) (I) market the products of members of the cooperative or the products of other producers; and

(II) return to the members of the cooperative or other producers the proceeds of sales less necessary marketing expenses on the basis of the quantity of the products of a member or producer or the value of the products of a member or producer; or

(B) (I) purchase supplies and equipment for the use of members of the cooperative or other persons; and

(II) turn over the supplies and equipment described in Subsection (14)(a)(ii)(B)(I) at actual costs plus necessary expenses to the members of the cooperative or other persons.

(b) (i) Subject to Subsection (14)(b)(ii), for purposes of this Subsection (14), the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define:

(A) the terms:

(I) "member"; and

(II) "producer"; and

(B) what constitutes an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection (14)(a)(i)(A).

(ii) The rules made under this Subsection (14)(b) shall be consistent with the filing requirements under federal law for a farmers' cooperative.

(15) "Foreign corporation" means a corporation that is not incorporated or organized under the laws of this state.

(16) (a) "Foreign operating company" means a corporation if:

(i) the corporation is incorporated in the United States;

(ii) at least 80% of the corporation's business activity, as determined under Section 59-7-401, is conducted outside the United States; and

(iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, the corporation has:

(A) at least $1,000,000 of payroll located outside the United States; and

(B) at least $2,000,000 of property located outside the United States.

(b) "Foreign operating company" does not include a corporation that qualifies for the Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

(17) (a) "Foreign real estate investment trust" means:

(i) a business entity organized outside the laws of the United States if:

(A) at least 75% of the business entity's total asset value at the close of the business entity's taxable year is represented by:

(I) real estate assets, as defined in Section 856(c)(5)(B), Internal Revenue Code;

(II) cash or cash equivalents; or

(III) one or more securities issued or guaranteed by the United States;

(B) the business entity is:

(I) not subject to income taxation:

(Aa) on amounts distributed to the business entity's beneficial owners; and

(Bb) in the jurisdiction in which the business entity is organized; or

(II) exempt from income taxation on an entity level in the jurisdiction in which the business entity is organized;

(C) the business entity distributes at least 85% of the business entity's taxable income, as computed in the jurisdiction in which the business entity is organized, to the holders of the business entity's:

(I) shares or beneficial interests; and

(II) on an annual basis;

(D) (I) not more than 10% of the following is held directly, indirectly, or constructively by a single person:

(Aa) the voting power of the business entity; or

(Bb) the value of the shares or beneficial interests of the business entity; or

(II) the shares of the business entity are regularly traded on an established securities market; and

(E) the business entity is organized in a country that has a tax treaty with the United States; or

(ii) a listed Australian property trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining:

(i) "cash or cash equivalents";

(ii) "established securities market"; or

(iii) "listed Australian property trust."

(18) "Income" includes losses.

(19) "Internal Revenue Code" means Title 26 of the United States Code as effective during the year in which Utah taxable income is determined.

(20) "Nonbusiness income" is as defined in Section 59-7-302.

(21) "Real estate investment trust" is as defined in Section 856, Internal Revenue Code.

(22) "Related expenses" means:

(a) expenses directly attributable to nonbusiness income; and

(b) the portion of interest or other expense indirectly attributable to both nonbusiness and business income which bears the same ratio to the aggregate amount of such interest or other expense, determined without regard to this Subsection (22), as the average amount of the asset producing the nonbusiness income bears to the average amount of all assets of the taxpayer within the taxable year.

(23) "Safe harbor lease" means a lease that qualified as a safe harbor lease under Section 168, Internal Revenue Code.

(24) "S corporation" means an S corporation as defined in Section 1361, Internal Revenue Code.

(25) "State of the United States" includes any of the 50 states or the District of Columbia.

(26) (a) "Taxable year" means the calendar year or the fiscal year ending during such calendar year upon the basis of which the adjusted income is computed.

(b) In the case of a return made for a fractional part of a year under this chapter

or under rules prescribed by the commission, "taxable year" includes the period for which such return is made.

(27) "Taxpayer" means any corporation subject to the tax imposed by this chapter.

(28) "Threshold level of business activity" means business activity in the United States equal to or greater than 20% of the corporation's total business activity as determined under Section 59-7-401.

(29) "Unadjusted income" means federal taxable income as determined on a separate return basis before intercompany eliminations as determined by the Internal Revenue Code, before the net operating loss deduction and special deductions for dividends received.

(30) (a) "Unitary group" means a group of corporations that:

(i) are related through common ownership; and

(ii) by a preponderance of the evidence as determined by a court of competent jurisdiction or the commission, are economically interdependent with one another as demonstrated by the following factors:

(A) centralized management;

(B) functional integration; and

(C) economies of scale.

(b) "Unitary group" includes a captive real estate investment trust.

(c) "Unitary group" does not include an S corporation.

(31) "United States" includes the 50 states and the District of Columbia.

(32) "Utah net loss" means the current year Utah taxable income before Utah net loss deduction, if determined to be less than zero.

(33) "Utah net loss deduction" means the amount of Utah net losses from other taxable years that may be carried back or carried forward to the current taxable year in accordance with Section 59-7-110.

(34) (a) "Utah taxable income" means Utah taxable income before net loss deduction less Utah net loss deduction.

(b) "Utah taxable income" includes income from tangible or intangible property located or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign commerce.

(35) "Utah taxable income before net loss deduction" means apportioned income plus nonbusiness income allocable to Utah net of related expenses.

(36) (a) "Water's edge combined report" means a report combining the income and activities of:

(i) all members of a unitary group that are:

(A) corporations organized or incorporated in the United States, including those corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section 936, Internal Revenue Code, in accordance with Subsection (36)(b); and

(B) corporations organized or incorporated outside of the United States meeting the threshold level of business activity; and

(ii) an affiliated group electing to file a water's edge combined report under Subsection 59-7-402(2).

(b) There is a rebuttable presumption that a corporation which qualifies for the

Puerto Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a unitary group.

(37) "Worldwide combined report" means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity.

Amended by Chapter 69, 2011 General Session

59-7-102 (Superseded 09/02/14). Exemptions.

(1) Except as provided in this section, the following are exempt from a tax under this chapter:

(a) an organization exempt under Section 501, Internal Revenue Code;

(b) an organization exempt under Section 528, Internal Revenue Code;

(c) an insurance company that is otherwise taxed on the insurance company's premiums under Chapter 9, Taxation of Admitted Insurers;

(d) a local building authority as defined in Section 17D-2-102;

(e) a farmers' cooperative; or

(f) a public agency, as defined in Section 11-13-103, with respect to or as a result of an ownership interest in:

(i) a project, as defined in Section 11-13-103; or

(ii) facilities providing additional project capacity, as defined in Section 11-13-103.

(2) A corporation is exempt from a tax under this chapter:

(a) if the corporation is an out-of-state business as defined in Section 53-2a-1202; and

(b) for income earned:

(i) during a disaster period as defined in Section 53-2a-1202; and

(ii) for the purpose of responding to a declared state disaster or emergency as defined in Section 53-2a-1202.

(3) Notwithstanding any other provision in this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, a person not otherwise subject to the tax imposed by this chapter or Chapter 8 is not subject to a tax imposed by Section 59-7-104, 59-7-201, 59-7-701, or 59-8-104, because of:

(a) that person's ownership of tangible personal property located at the premises of a printer's facility in this state with which the person has contracted for printing; or

(b) the activities of the person's employees or agents who are:

(i) located solely at the premises of a printer's facility; and

(ii) performing services:

(A) related to:

(I) quality control;

(II) distribution; or

(III) printing services; and

(B) performed by the printer's facility in this state with which the person has

contracted for printing.

(4) Notwithstanding Subsection (1), an organization, company, authority, farmers' cooperative, or public agency exempt from this chapter under Subsection (1) is subject to Part 8, Unrelated Business Income, to the extent provided in Part 8.

(5) Notwithstanding Subsection (1)(b), to the extent the income of an organization described in Subsection (1)(b) is taxable for federal tax purposes under Section 528, Internal Revenue Code, the organization's income is also taxable under this chapter.

Amended by Chapter 376, 2014 General Session

59-7-103. Chapter applicable to receivers, trustees in bankruptcy and assignees.

Unless otherwise provided in this chapter, receivers, trustees in bankruptcy, and assignees for creditors required to make returns under this chapter shall be subject to the provisions of this chapter.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-104. Tax -- Minimum tax.

(1) Each domestic and foreign corporation, except those exempted under Section 59-7-102, shall pay an annual tax to the state based on its Utah taxable income for the taxable year for the privilege of exercising its corporate franchise or for the privilege of doing business in the state.

(2) The tax shall be 5% of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is $100.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-105. Additions to unadjusted income.

In computing adjusted income the following amounts shall be added to unadjusted income:

(1) interest from bonds, notes, and other evidences of indebtedness issued by any state of the United States, including any agency and instrumentality of a state of the United States;

(2) the amount of any deduction taken on a corporation's federal return for taxes paid by a corporation:

(a) to Utah for taxes imposed by this chapter; and

(b) to another state of the United States, a foreign country, a United States possession, or the Commonwealth of Puerto Rico for taxes imposed for the privilege of doing business, or exercising its corporate franchise, including income, franchise, corporate stock and business and occupation taxes;

(3) the safe harbor lease adjustment required under Subsections 59-7-111(1)(a) and (2)(a);

(4) capital losses that have been deducted on a Utah corporate return in

previous years;

(5) any deduction on the federal return that has been previously deducted on the Utah return;

(6) the amount of contributions claimed as a tax credit pursuant to Section 59-7-602;

(7) the amount of the deduction taken pursuant to Section 59-7-603 for sophisticated technological equipment;

(8) charitable contributions, to the extent deducted on the federal return when determining federal taxable income;

(9) the amount of gain or loss determined under Section 59-7-114 relating to a target corporation under Section 338, Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;

(10) the amount of gain or loss determined under Section 59-7-115 relating to corporations treated for federal purposes as having disposed of its assets under Section 336(e), Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;

(11) adjustments to gains, losses, depreciation expense, amortization expense, and similar items due to a difference between basis for federal purposes and basis as computed under Section 59-7-107;

(12) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a corporation that is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the corporation that is the account owner:

(a) is not expended for:

(i) higher education costs as defined in Section 53B-8a-102; or

(ii) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(b) is subtracted by the corporation:

(i) that is the account owner; and

(ii) in accordance with Subsection 59-7-106 (1)(r); and

(13) the amount of the deduction for dividends paid, as defined in Section 561, Internal Revenue Code, that is allowed under Section 857(b)(2)(B), Internal Revenue Code, in computing the taxable income of a captive real estate investment trust, if that captive real estate investment trust is subject to federal income taxation.

Amended by Chapter 6, 2010 General Session
Amended by Chapter 198, 2010 General Session

59-7-106. Subtractions from unadjusted income.

(1) In computing adjusted income the following amounts shall be subtracted from unadjusted income:

(a) the foreign dividend gross-up included in gross income for federal income tax purposes under Section 78, Internal Revenue Code;

(b) subject to Subsection (2), the net capital loss, as defined for federal

purposes, if the taxpayer elects to deduct the net capital loss on the return filed under this chapter for the taxable year for which the net capital loss is incurred;

(c) the decrease in salary expense deduction for federal income tax purposes due to claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

(d) the decrease in qualified research and basic research expense deduction for federal income tax purposes due to claiming the federal credit for increasing research activities under Section 41, Internal Revenue Code;

(e) the decrease in qualified clinical testing expense deduction for federal income tax purposes due to claiming the federal credit for clinical testing expenses for certain drugs for rare diseases or conditions under Section 45C, Internal Revenue Code;

(f) any decrease in any expense deduction for federal income tax purposes due to claiming any other federal credit;

(g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);

(h) any income on the federal corporation income tax return that has been previously taxed by Utah;

(i) an amount included in federal taxable income that is due to a refund of a tax, including a franchise tax, an income tax, a corporate stock and business tax, or an occupation tax:

(i) if that tax is imposed for the privilege of:

(A) doing business; or

(B) exercising a corporate franchise;

(ii) if that tax is paid by the corporation to:

(A) Utah;

(B) another state of the United States;

(C) a foreign country;

(D) a United States possession; or

(E) the Commonwealth of Puerto Rico; and

(iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

(j) a charitable contribution, to the extent the charitable contribution is allowed as a subtraction under Section 59-7-109;

(k) subject to Subsection (3), 50% of a dividend considered to be received or received from a subsidiary that:

(i) is a member of the unitary group;

(ii) is organized or incorporated outside of the United States; and

(iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

(l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a foreign operating company;

(m) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, if an election has been made in accordance with Section 338(h)(10), Internal Revenue Code;

(n) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue Code, has been made for federal purposes;

(o) subject to Subsection (5), an adjustment to the following due to a difference between basis for federal purposes and basis as computed under Section 59-7-107:

(i) an amortization expense;

(ii) a depreciation expense;

(iii) a gain;

(iv) a loss; or

(v) an item similar to Subsections (1)(o)(i) through (iv);

(p) an interest expense that is not deducted on a federal corporation income tax return under Section 265(b) or 291(e), Internal Revenue Code;

(q) 100% of dividends received from a subsidiary that is an insurance company if that subsidiary that is an insurance company is:

(i) exempt from this chapter under Subsection 59-7-102(1)(c); and

(ii) under common ownership;

(r) subject to Subsection 59-7-105(12), the amount of a qualified investment as defined in Section 53B-8a-102 that:

(i) a corporation that is an account owner as defined in Section 53B-8a-102 makes during the taxable year;

(ii) the corporation described in Subsection (1)(r)(i) does not deduct on a federal corporation income tax return; and

(iii) does not exceed the maximum amount of the qualified investment that may be subtracted from unadjusted income for a taxable year in accordance with Subsection 53B-8a-106(1);

(s) for purposes of income included in a combined report under Part 4, Combined Reporting, the entire amount of the dividends a member of a unitary group receives or is considered to receive from a captive real estate investment trust; and

(t) the increase in income for federal income tax purposes due to claiming a:

(i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

(ii) qualified zone academy bond under Section 1397E, Internal Revenue Code.

(2) For purposes of Subsection (1)(b):

(a) the subtraction shall be made by claiming the subtraction on a return filed:

(i) under this chapter for the taxable year for which the net capital loss is incurred; and

(ii) by the due date of the return, including extensions; and

(b) a net capital loss for a taxable year shall be:

(i) subtracted for the taxable year for which the net capital loss is incurred; or

(ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue Code.

(3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a taxpayer shall first subtract from a dividend considered to be received or received an expense directly attributable to that dividend.

(b) For purposes of Subsection (3)(a), the amount of an interest expense that is

considered to be directly attributable to a dividend is calculated by multiplying the interest expense by a fraction:

(i) the numerator of which is the taxpayer's average investment in the dividend paying subsidiaries; and

(ii) the denominator of which is the taxpayer's average total investment in assets.

(c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in determining income apportionable to this state, a portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the combined report factors as provided in this Subsection (3)(c).

(ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be included in the combined report factors is calculated by multiplying each factor of the foreign subsidiary by a fraction:

(A) not to exceed 100%; and

(B) (I) the numerator of which is the amount of the dividend paid by the foreign subsidiary that is included in adjusted income; and

(II) the denominator of which is the current year earnings and profits of the foreign subsidiary as determined under the Internal Revenue Code.

(4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under Subsection (1)(l):

(i) if the taxpayer elects to file a worldwide combined report as provided in Section 59-7-403; or

(ii) for the following:

(A) income generated from intangible property; or

(B) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating company:

(i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

(ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a transaction that occurs between members of a unitary group.

(c) For purposes of the subtraction provided for in Subsection (1)(l), in determining income apportionable to this state, the factors for a foreign operating company shall be included in the combined report factors in the same percentages as the foreign operating company's adjusted income is included in the combined adjusted income.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes:

(i) income generated from intangible property; or

(ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the

amount of a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax credit is claimed if:

(i) there is a reduction in federal basis for a federal tax credit; and

(ii) there is no corresponding tax credit allowed in this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an item similar to Subsections (1)(o)(i) through (iv).

Amended by Chapter 273, 2014 General Session

59-7-107. Basis.

(1) (a) For property acquired after December 31, 1993, basis shall be determined pursuant to the Internal Revenue Code without reference to Section 1502, Internal Revenue Code, or regulations promulgated under that section.

(b) Notwithstanding Subsection (1)(a), adjustments for basis in a combined report may be established by rules promulgated by the tax commission.

(2) For property acquired after December 31, 1930, but before January 1, 1994, basis shall be determined under Utah law in effect at the time the property was acquired.

(3) (a) Except as provided in Subsection (3)(c), the basis for determining the gain or loss from the sale or other disposition of property acquired before January 1, 1931, shall be:

(i) the cost of such property or in the case of property acquired by gift or transfer in trust, the fair market value of such property at the time of such acquisition; or

(ii) the fair market value of such property as of January 1, 1931, whichever is greater.

(b) In determining the fair market value of stock in a corporation as of January 1, 1931, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(c) (i) In determining the basis for inventory acquired before January 1, 1931, if the property should have been included in the last inventory, the basis shall be the value of that property at the last inventory.

(ii) In determining the basis for bequests and devises acquired before January 1, 1931, if personal property was acquired by specific bequest, or if real property was acquired by general or specific devise, the basis shall be the fair market value of the property at the time of the death of the decedent. In all other cases if the property was acquired by will, the basis shall be the fair market value of the property at the time of the distribution to the taxpayer.

(iii) In determining the basis for property acquired before January 1, 1931, during affiliation in which a combined report is filed under either Section 59-7-402 or 59-7-403, the basis shall be determined in accordance with rules prescribed by the commission.

(4) If any property subject to taxation under this chapter was acquired before January 1, 1931, the basis of such property, if other than the fair market value as of January 1, 1931, shall be diminished in the amount of exhaustion, wear and tear,

obsolescence, and depletion actually sustained before such date.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-108. Distributions by corporations.

(1) (a) For purposes of this chapter, a distribution is made out of earnings or profits to the extent of the earnings or profits, and from the most recently accumulated earnings or profits.

(b) (i) Subject to Subsection (1)(b)(ii), any earnings or profits accumulated or increase in value of property accrued before January 1, 1931, may be excluded from taxable income after the earnings and profits accumulated after December 31, 1930 have been distributed.

(ii) A distribution described in Subsection (1)(b)(i) shall be applied against and reduce the basis of the stock.

(2) (a) Subject to Subsection (2)(b), if any distribution that is not in partial or complete liquidation is made by a corporation to its shareholders, is not out of increase in value of property accrued before January 1, 1931, and is not out of earnings or profits, the amount of the distribution shall be applied against and reduce the basis of the stock.

(b) If a distribution described in Subsection (2)(a) is in excess of the basis of the stock, the excess shall be treated as a gain from the sale or exchange of property.

Amended by Chapter 69, 2011 General Session

59-7-109. Charitable contributions.

(1) Except as provided in Subsection (2), a subtraction is allowed for charitable contributions made within the taxable year to organizations described in Section 170(c), Internal Revenue Code.

(2) The aggregate amount of charitable contributions deductible under this section may not exceed 10% of the taxpayer's apportionable income. The limitation imposed in this subsection shall be calculated on a combined basis in a combined report.

(3) Any charitable contribution made in a taxable year beginning on or after January 1, 1994, which is in excess of the amount allowed as a deduction under Subsection (2) may be carried over to the five succeeding taxable years in the same manner as allowed under federal law.

Amended by Chapter 311, 1995 General Session

59-7-110. Utah net losses -- Carryforwards and carrybacks -- Deduction.

(1) The amount of Utah net loss that shall be carried back or forward to offset income of another taxable year is determined as provided in this section.

(2) (a) Subject to the other provisions of this section, a Utah net loss from a taxable year beginning before January 1, 1994, shall be carried back three taxable years preceding the taxable year of the loss and any remaining loss shall be carried

forward five taxable years following the taxable year of the loss.

(b) (i) Subject to the other provisions of this section, a Utah net loss from a taxable year beginning on or after January 1, 1994, may be carried back three taxable years preceding the taxable year of the loss and carried forward 15 taxable years following the taxable year of the loss.

(ii) If an election is made to forego the federal net operating loss carryback, a Utah net loss is not eligible to be carried back unless an election is made for state purposes.

(3) A Utah net loss shall be carried to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous years that were applied or required to be applied to offset income, is not less than zero.

(4) (a) Except as provided in Subsection (4)(b), the amount of Utah net loss that shall be carried to the year identified in Subsection (3) is the lesser of:

(i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that were carried to previous years; or

(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous years that were carried or required to be carried to the year identified in Subsection (3).

(b) (i) The amount of Utah net loss carried back from a taxable year may not exceed $1,000,000 in Utah taxable income for each return filed under this chapter in a taxable year.

(ii) A Utah net loss in excess of $1,000,000 may be carried forward.

(iii) A remaining Utah net loss shall be available to be carried to one or more taxable years in accordance with this section.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of another corporation may not deduct any net loss incurred by the acquired corporation prior to the date of acquisition.

(ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of the state of incorporation.

(b) An acquired corporation may deduct the acquired corporation's net losses incurred before the date of acquisition against the acquired corporation's separate income as calculated under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before the acquisition.

(6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation that is acquired by a unitary group may deduct is calculated by:

(a) subject to Subsection (7):

(i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

(A) an amount determined by dividing the average value of the acquired corporation's real and tangible personal property owned or rented and used in this state during the taxable year by the average value of all of the unitary group's real and tangible personal property owned or rented and used during the taxable year;

(B) an amount determined by dividing the total amount paid in this state during the taxable year by the acquired corporation for compensation by the total compensation paid everywhere by the unitary group during the taxable year; and

(C) an amount determined by:

(I) dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year; and

(II) (Aa) if the unitary group elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(2)(d), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by two;

(Bb) if the unitary group is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(3)(a), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by four; or

(Cc) if the unitary group is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(3)(b), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by 10; or

(ii) if the unitary group is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(3)(c), calculating an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year;

(b) dividing the amount calculated under Subsection (6)(a) by the same denominator of the fraction the unitary group uses to apportion business income to this state:

(i) for that taxable year; and

(ii) in accordance with Section 59-7-311;

(c) multiplying the amount calculated under Subsection (6)(b) by the business income of the unitary group for the taxable year that is subject to apportionment under Section 59-7-311; and

(d) calculating the sum of:

(i) the amount calculated under Subsection (6)(c); and

(ii) the following amounts allocable to the acquired corporation for the taxable year:

(A) nonbusiness income allocable to this state; or

(B) nonbusiness loss allocable to this state.

(7) The amounts calculated under Subsection (6)(a) shall be derived in the same manner as those amounts are derived for purposes of apportioning the unitary group's business income before deducting the net loss, including a modification made in accordance with Section 59-7-320.

Amended by Chapter 155, 2010 General Session

59-7-111. Safe harbor lease provisions.

(1) (a) For purchasers or lessors of safe harbor leases, the following additions shall be made to unadjusted income:

(i) interest expense; and

(ii) depreciation claimed on safe harbor lease property.

(b) For purchasers or lessors of safe harbor leases, the following subtractions

shall be made from unadjusted income:

(i) rental income; and

(ii) amortization of the purchase price of tax benefits.

(2) (a) For sellers or lessees of safe harbor leases the following additions shall be made from unadjusted income:

(i) the amount of gain on the sale of federal tax benefits; and

(ii) rental expense on safe harbor lease property.

(b) For sellers or lessees of safe harbor leases the following subtractions shall be made to unadjusted income:

(i) interest income; and

(ii) depreciation on safe harbor lease property.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-112. Installment sales.

(1) Except as provided in Subsections (2) and (3), installment sales shall be governed by Sections 453, 453A, and 453B, Internal Revenue Code.

(2) Installment sales entered into prior to January 1, 1994, shall be recognized as originally reported.

(3) If a corporation is no longer required to file a Utah corporate return, any taxes owed by that corporation on installment sales entered into by that corporation shall accelerate and be due on the corporation's last return filed in Utah.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-113. Allocation of income and deductions between several corporations controlled by same interests.

If two or more corporations (whether or not organized or doing business in this state, and whether or not affiliated) are owned or controlled directly or indirectly by the same interests, the commission is authorized to distribute, apportion, or allocate gross income or deductions between or among such corporations, if it determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such corporations.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-114. Section 338, Internal Revenue Code -- Elections.

(1) Transactions for which an election has been made or considered to be made for federal purposes under Section 338, Internal Revenue Code, shall be treated as provided in this section. An election is not available for state purposes unless an election is made or considered to be made for federal purposes.

(2) If an election is made or considered to be made for federal purposes under Section 338, Internal Revenue Code, other than under Subsection 338(h)(10):

(a) the target corporation shall file a separate entity one-day tax return for state purposes, as is required for federal purposes, and shall include in such return the gain

or loss on the deemed sale of assets in its adjusted income;

(b) the gain or loss on the deemed sale of assets shall be apportioned to this state using the apportionment fraction of the target corporation calculated on a separate entity basis for the most recent preceding taxable year consisting of 180 days or more; and

(c) the due date of the one-day return shall be the same as the due date of the return which includes the taxable period of the target corporation which immediately precedes the one-day return.

(3) If an election is made for federal purposes under Subsection 338(h)(10), Internal Revenue Code, the following shall apply:

(a) if the target corporation is a member of a unitary group immediately preceding the acquisition date, the target corporation shall be included in a combined return to the extent of its income through the acquisition date, and the gain or loss on the deemed sale of assets shall be included in the combined income of the unitary group;

(b) if the target corporation is not a member of a unitary group immediately preceding the acquisition date, the target corporation shall file a short period return for the period ending on the acquisition date and shall include in such return the gain or loss on the deemed sale of assets in its adjusted income; and

(c) any gain or loss which is not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, may not be included in the adjusted income of the selling corporation.

(4) There is a rebuttable presumption that the gain or loss on the deemed sale of assets constitutes business income.

(5) The new basis of the target corporation's assets shall be determined under Section 338, Internal Revenue Code.

(6) The target corporation shall be treated as a new corporation as of the day after the acquisition date.

(7) The commission may prescribe such rules as necessary to provide for the equitable treatment of any transaction subject to Section 338, Internal Revenue Code.

Amended by Chapter 9, 2001 General Session

59-7-115. Section 336(e), Internal Revenue Code -- Elections.

(1) Transactions for which an election has been made for federal purposes under Section 336(e), Internal Revenue Code, shall be treated as provided in this section. An election is not available for state purposes unless an election is made for federal purposes.

(2) If an election is made under Section 336(e), Internal Revenue Code, the following shall apply:

(a) if the corporation is treated for federal purposes as having disposed of all of its assets and is a member of a unitary group immediately preceding the date of sale, the corporation shall be included in a combined return to the extent of its income through the date of sale, and the gain or loss on the deemed disposal of assets shall

be included in the combined income of the unitary group;

(b) if the corporation is treated for federal purposes as having disposed of all of its assets and is not a member of a unitary group immediately preceding the date of sale, the corporation shall file a short period return for the period ending on the date of sale and shall include in such return the gain or loss on the deemed disposal of assets in its adjusted income; and

(c) any gain or loss which is not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation pursuant to Section 336(e), Internal Revenue Code, may not be included in adjusted income.

(3) There is a rebuttable presumption that the gain or loss on the deemed disposition of assets constitutes business income.

(4) The new basis of assets of the corporation which is treated as having disposed of its assets shall be the same as determined for federal purposes.

(5) The corporation which is treated as having disposed of its assets shall be treated as a new corporation as of the day after the date of sale.

(6) The commission may prescribe such rules as necessary to provide for the equitable treatment of any transaction subject to Section 336(e), Internal Revenue Code.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-116. Taxation of regulated investment companies.

(1) A regulated investment company or a fund of such a company, as defined in Sections 851(a) or 851(g), Internal Revenue Code, which is organized under the laws of Utah, shall determine Utah taxable income as follows:

(a) calculate investment company taxable income, as determined in Section 852(b)(2), Internal Revenue Code;

(b) add any municipal interest and the exclusion of net capital gain provided in Section 852(b)(2)(A), Internal Revenue Code; and

(c) subtract the deduction for the capital gain dividends and exempt interest dividends as defined in Sections 852(b)(3)(C) and 852(b)(5), Internal Revenue Code.

(2) A regulated investment company which is organized under the laws of Utah or a fund of such a company, shall be taxed at the same rate and in the same manner as a corporation as provided in this chapter.

Amended by Chapter 250, 2008 General Session

59-7-116.5. Real estate investment trusts.

(1) A real estate investment trust that is not a captive real estate investment trust shall be taxed on the same income taxed for federal purposes under the Internal Revenue Code.

(2) Any income taxable under this section shall be taxed at the same rate and in the same manner provided for in this chapter.

Amended by Chapter 389, 2008 General Session

59-7-117. Equitable adjustments.

The commission shall by rule prescribe for adjustments to Utah taxable income when, solely by reason of the enactment of this chapter, a taxpayer would otherwise receive or have received a double tax benefit or suffer or have suffered a double tax detriment. However, the commission may not make any adjustment pursuant to this section which will result in an increase or decrease of tax liability that is less than $25.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-201. Tax -- Minimum tax.

(1) There is imposed upon each corporation except those exempt under Section 59-7-102 for each taxable year, a tax upon its Utah taxable income derived from sources within this state other than income for any period which the corporation is required to include in its tax base under Section 59-7-104.

(2) The tax imposed by Subsection (1) shall be 5% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than $100.

Amended by Chapter 169, 1993 General Session

59-7-203. Computation of Utah taxable income.

For purposes of the tax imposed by this part, Utah taxable income shall be determined in accordance with Part 1 of this chapter except that wherever the date December 31, 1930 appears, the date December 31, 1958 shall be substituted, and wherever the date January 1, 1931 appears, the date January 1, 1959 shall be substituted.

Amended by Chapter 169, 1993 General Session

59-7-204. Income attributed to sources within the state.

For the purposes of the tax imposed by this part, the portion of Utah taxable income derived from or attributable to sources within this state shall be determined in accordance with Parts 3 and 4 of this chapter.

Amended by Chapter 4, 1993 General Session
Amended by Chapter 169, 1993 General Session

59-7-205. Applicability of Parts 5 and 6 of chapter.

For purposes of the tax imposed by this part, Parts 5 and 6 of this chapter shall apply.

Amended by Chapter 169, 1993 General Session

59-7-206. Offsets against tax.

There shall be offset against the tax imposed by this part for any period the

amount of any tax imposed on the taxpayer under Section 59-7-104 for the same period. In the event that taxes, interest, and penalties have been or shall be assessed against, paid by, or collected from a taxpayer under Section 59-7-201, which assessment, payment, or collection should have been made under Section 59-7-104, such taxes, interest, and penalties shall be considered as having been assessed, paid, or collected under Section 59-7-104 as of the dates they were made.

Amended by Chapter 169, 1993 General Session

59-7-207. Corporations becoming subject to tax -- Assessment under other sections.

If a corporation formerly subject to tax under Section 59-7-104 becomes subject to tax under this part, it shall file an information return for the income year in which the change occurs. The tax for the year in which the change occurs will be assessed under Section 59-7-104 and not under Section 59-7-201. For years subsequent to the year in which the change occurs, the tax will be assessed under Section 59-7-201.

Amended by Chapter 169, 1993 General Session

59-7-208. Provisions followed for purposes of tax collected.

For the purposes of the taxes collected under this part, and interest and penalties arising in connection therewith, the provisions of Section 59-7-532 shall be followed.

Amended by Chapter 169, 1993 General Session

59-7-302 (Superseded 01/01/15). Definitions -- Determination of when a taxpayer is considered to be a sales factor weighted taxpayer.

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" is as defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

(d) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) (i) Except as provided in Subsection (1)(g)(ii), "mobile flight equipment" is as defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection 59-2-102(25) owned by an:

(I) air charter service; or

(II) air contract service.

(h) "Nonbusiness income" means all income other than business income.

(i) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(j) "Sales" means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.

(k) Subject to Subsection (2), "sales factor weighted taxpayer" means:

(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

(A) a NAICS code within NAICS Sector 21, Mining;

(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(C) a NAICS code within NAICS Sector 31-33, Manufacturing;

(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

(F) a NAICS code within NAICS Sector 52, Finance and Insurance; or

(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

(A) a NAICS code within NAICS Sector 21, Mining;

(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(C) a NAICS code within NAICS Sector 31-33, Manufacturing;

(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

(F) a NAICS code within NAICS Sector 52, Finance and Insurance.

(l) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(m) "Transportation revenue" means revenue an airline earns from:

(i) transporting a passenger or cargo; or

(ii) from miscellaneous sales of merchandise as part of providing transportation services.

(n) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the airline's tax period; and

(ii) from flight stages that originate or terminate in this state.

(2) The following apply to Subsection (1)(k):

(a) (i) Subject to the other provisions of this Subsection (2), a taxpayer shall for each taxable year determine whether the taxpayer is a sales factor weighted taxpayer.

(ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

(iii) For purposes of making the determination required by Subsection (2)(a)(i), total sales everywhere include only the total sales everywhere:

(A) as determined in accordance with this part; and

(B) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a)(i).

(b) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

Amended by Chapter 398, 2014 General Session

59-7-303. Apportionable income.

(1) Any taxpayer having income from business activity which is taxable both within and without this state shall allocate and apportion its adjusted income as provided in this part.

(2) Any taxpayer having income solely from business activity taxable within this state shall allocate or apportion its entire adjusted income to this state.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-305. When taxable in another state.

For purposes of allocation and apportionment of income under this part, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

Renumbered and Amended by Chapter 2, 1987 General Session

59-7-306. Allocation of certain nonbusiness income.

Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in Sections 59-7-307 through 59-7-310.

Renumbered and Amended by Chapter 2, 1987 General Session

59-7-307. Allocation of rents and royalties.

(1) To the extent that the following constitute nonbusiness income:

(a) net rents and royalties from real property located in this state are allocable to this state; and

(b) net rents and royalties from tangible personal property are allocable to this state:

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(2) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

Amended by Chapter 83, 1994 General Session

59-7-308. Allocation of capital gains and losses.

To the extent that the following constitute nonbusiness income:

(1) capital gains and losses from sales of real property located in this state are allocable to this state;

(2) capital gains and losses from sales of tangible personal property are allocable to this state if:

(a) the property had a situs in this state at the time of the sale; or

(b) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs; and

(3) capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

Amended by Chapter 83, 1994 General Session

59-7-309. Allocation of interest and dividends.

To the extent they constitute nonbusiness income, interest and dividends are

allocable to this state if the taxpayer's commercial domicile is in this state.

Amended by Chapter 83, 1994 General Session

59-7-310. Allocation of patent and copyright royalties.

(1) To the extent they constitute nonbusiness income, patent and copyright royalties are allocable to this state:

(a) if and to the extent that the patent or copyright is utilized by the payer in this state; or

(b) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

Amended by Chapter 83, 1994 General Session

59-7-311. Method of apportionment of business income.

(1) For a taxable year, all business income shall be apportioned to this state by multiplying the business income by a fraction calculated as provided in this section.

(2) (a) Subject to the other provisions of this part, for the taxable year that begins on or after January 1, 2010, but begins on or before December 31, 2010, a taxpayer, including a sales factor weighted taxpayer, shall elect to calculate the fraction for apportioning business income to this state under this section using:

(i) the method described in Subsection (2)(c); or

(ii) the method described in Subsection (2)(d).

(b) Subject to the other provisions of this part, for a taxable year that begins on or after January 1, 2011, a taxpayer, except for a sales factor weighted taxpayer, shall elect to calculate the fraction for apportioning business income to this state under this section using:

(i) the method described in Subsection (2)(c); or

(ii) the method described in Subsection (2)(d).

(c) For purposes of Subsection (2)(a) or (b), a taxpayer described in Subsection (2)(a) or (b) may elect to calculate the fraction for apportioning business income as follows:

(i) the numerator of the fraction is the sum of:

(A) the property factor as calculated under Section 59-7-312;
(B) the payroll factor as calculated under Section 59-7-315; and
(C) the sales factor as calculated under Section 59-7-317; and
(ii) the denominator of the fraction is three.
(d) For purposes of Subsection (2)(a) or (b), a taxpayer described in Subsection (2)(a) or (b) may elect to calculate the fraction for apportioning business income as follows:
(i) the numerator of the fraction is the sum of:
(A) the property factor as calculated under Section 59-7-312;
(B) the payroll factor as calculated under Section 59-7-315; and
(C) the product of:
(I) the sales factor as calculated under Section 59-7-317; and
(II) two; and
(ii) the denominator of the fraction is four.
(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for a taxpayer described in Subsection (2)(a) or (b) to make the election required by this Subsection (2).
(3) (a) Subject to the other provisions of this part, for the taxable year that begins on or after January 1, 2011, but begins on or before December 31, 2011, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as follows:
(i) the numerator of the fraction is the sum of:
(A) the property factor as calculated under Section 59-7-312;
(B) the payroll factor as calculated under Section 59-7-315; and
(C) the product of:
(I) the sales factor as calculated under Section 59-7-317; and
(II) four; and
(ii) the denominator of the fraction is six.
(b) Subject to the other provisions of this part, for the taxable year that begins on or after January 1, 2012, but begins on or before December 31, 2012, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as follows:
(i) the numerator of the fraction is the sum of:
(A) the property factor as calculated under Section 59-7-312;
(B) the payroll factor as calculated under Section 59-7-315; and
(C) the product of:
(I) the sales factor as calculated under Section 59-7-317; and
(II) 10; and
(ii) the denominator of the fraction is 12.
(c) Subject to the other provisions of this part, for a taxable year that begins on or after January 1, 2013, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as follows:
(i) the numerator of the fraction is the sales factor as calculated under Section 59-7-317; and
(ii) the denominator of the fraction is one.

(4) If a taxpayer calculates the fraction for apportioning business income to this state using a method described in this section:

(a) the taxpayer shall determine the method for calculating the fraction for apportioning business income to this state under this section on or before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions; and

(b) the method described in Subsection (4)(a) is in effect for the time period:

(i) beginning on the first day of the taxpayer's taxable year for which the taxpayer makes the determination described in Subsection (4)(a); and

(ii) ends on the last day of the taxable year described in Subsection (4)(b)(i).

Amended by Chapter 155, 2010 General Session

59-7-312. Property factor for apportionment of business income -- Mobile flight equipment of an airline.

(1) Except as provided in Subsection (2), the property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(2) The average value of an airline's real and tangible personal property owned or rented and used in this state attributable to mobile flight equipment for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by determining the product of:

(a) the total average value of the airline's mobile flight equipment of the aircraft type owned or rented and used during the tax period; and

(b) a fraction, the numerator of which is the Utah revenue ton miles for the aircraft type and the denominator of which is the airline revenue ton miles for the aircraft type.

Amended by Chapter 283, 2008 General Session

59-7-313. Valuation of property for inclusion in property factor.

(1) Property owned by the taxpayer is valued at its original cost.

(2) Property rented by the taxpayer is valued at eight times the net annual rental rate.

(3) Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(4) Property owned or rented by an airline is valued as provided in this section, subject to the calculation required by Subsection 59-7-312(2).

Amended by Chapter 283, 2008 General Session

59-7-314. Averaging property values for inclusion in property factors.

(1) The average value of property shall be determined by averaging the values

at the beginning and ending of the tax period or averaging of monthly values during the tax period if monthly averaging more clearly reflects the average value of the taxpayer's property.

(2) The average value of property of an airline is valued as provided in this section, subject to the calculation required by Subsection 59-7-312(2).

Amended by Chapter 283, 2008 General Session

59-7-315. Payroll factor for apportionment of business income -- Compensation of flight personnel by an airline.

(1) Except as provided in Subsection (2), the payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

(2) The total amount paid in this state during the tax period by an airline for compensation attributable to the compensation of flight personnel for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by determining the product of:

(a) the total amount paid during the tax period by the airline to flight personnel for compensation for the aircraft type; and

(b) a fraction, the numerator of which is the Utah revenue ton miles for the aircraft type and the denominator of which is the airline revenue ton miles for the aircraft type.

Amended by Chapter 283, 2008 General Session

59-7-316. Determination of compensation for inclusion in payroll factor.

(1) Compensation is paid in this state if:

(a) the individual's service is performed entirely within the state;

(b) the individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) some of the service is performed in the state and:

(i) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or

(ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(2) Whether compensation paid by an airline is paid in this state is determined as provided in this section, subject to the calculation required by Subsection 59-7-315(2).

Amended by Chapter 283, 2008 General Session

59-7-317. Sales factor for apportionment of business income --

Transportation revenues of an airline.

(1) Except as provided in Subsection (2), the sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

(2) The total sales of an airline in this state during the tax period attributable to transportation revenues in this state during the tax period for purposes of the numerator of the fraction described in Subsection (1) shall be calculated by determining the product of:

(a) the total transportation revenues during the tax period of the airline; and

(b) a fraction, the numerator of which is the Utah revenue ton miles and the denominator of which is the airline revenue ton miles.

Amended by Chapter 283, 2008 General Session

59-7-318. Sales of tangible personal property.

(1) Sales of tangible personal property are in this state if:

(a) the property is delivered or shipped to a purchaser, other than the United States Government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) (i) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state; and

(ii) (A) the purchaser is the United States Government; or

(B) the taxpayer is not taxable in the state of the purchaser.

(2) Whether sales of tangible personal property by an airline are in this state is determined as provided in this section, subject to the calculation required by Subsection 59-7-317(2).

Amended by Chapter 283, 2008 General Session

59-7-319. Circumstances under which a receipt, rent, royalty, or sale is considered to be in this state.

(1) (a) Subject to Subsection (1)(b), as used in this section, "regulated investment company" is as defined in Section 851(a), Internal Revenue Code, in effect for the taxable year.

(b) "Regulated investment company" includes a trustee or sponsor of an employee benefit plan that has an account in a regulated investment company.

(2) The following are considered to be in this state:

(a) a rent in connection with:

(i) real property if the real property is in this state; or

(ii) tangible personal property if the tangible personal property is in this state;

(b) a royalty in connection with real property if the real property is in this state;

(c) a sale in connection with real property if the real property is in this state; or

(d) other income in connection with real property or tangible personal property if the real property or tangible personal property is in this state.

(3) (a) Subject to Subsection (3)(b), a receipt from the performance of a service is considered to be in this state if the purchaser of the service receives a greater benefit of the service in this state than in any other state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule prescribe the circumstances under which a purchaser of a service receives a greater benefit of the service in this state than in any other state.

(4) (a) Subject to Subsection (4)(b), a receipt in connection with intangible property is considered to be in this state if the intangible property is used in this state.

(b) If the intangible property described in Subsection (4)(a) is used in this state and outside this state, a receipt in connection with the intangible property shall be apportioned to this state in accordance with Subsection (4)(c).

(c) For purposes of Subsection (4)(b), for a taxable year the percentage of a receipt in connection with intangible property that is considered to be in this state is the percentage of the use of the intangible property that occurs in this state during the taxable year.

(5) (a) Notwithstanding Subsections (2) through (4), a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of management, distribution, or administration services to, or on behalf of a regulated investment company, is considered to be in this state:

(i) to the extent that shareholders of the regulated investment company are domiciled in the state; and

(ii) as provided in this Subsection (5).

(b) For purposes of Subsection (5)(a), the amount of a sale, other than a sale of tangible personal property, that is considered to be in this state is calculated by determining the product of:

(i) the taxpayer's total dollar amount of sales of the services; and

(ii) a fraction, the numerator of which is the average of the sum of the beginning of the year and the end of year balance of shares owned by the investment company shareholders domiciled in this state and the denominator of which is the average of the sum of the beginning of the year and end of year balance of shares owned by the investment company shareholders.

(c) A separate computation shall be made to determine the sales for each investment company.

(6) (a) Notwithstanding Subsections (2) through (4) and subject to Subsection (6)(b), the following sales are considered to be in this state to the extent that customers of a securities brokerage business are domiciled in the state:

(i) a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of a securities brokerage service by a taxpayer if that taxpayer is primarily engaged in providing a service in this state to a regulated investment company; or

(ii) a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of a securities brokerage service by a taxpayer that is an affiliate of a taxpayer that provides a service in this state to a regulated investment company.

(b) For purposes of Subsection (6)(a), the amount of a sale, other than a sale of tangible personal property, that is considered to be in this state is calculated by determining the product of:

(i) the taxpayer's total dollar amount of sales of securities brokerage services; and

(ii) a fraction, the numerator of which is the receipts from securities brokerage services from customers of the taxpayer domiciled in this state, and the denominator of which is the receipts from securities brokerage services from all customers of the taxpayer.

(7) Whether sales by an airline, other than sales of tangible personal property, are in this state is determined as provided in this section, subject to the calculation required by Subsection 59-7-317(2).

Amended by Chapter 69, 2011 General Session

59-7-320. Equitable adjustment of standard allocation or apportionment.

Notwithstanding any other provision of this part, if the allocation and apportionment provisions of this part do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the commission may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

(2) the exclusion of any one or more of the factors;

(3) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Amended by Chapter 225, 2005 General Session

59-7-321. Construction.

This part shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Renumbered and Amended by Chapter 2, 1987 General Session

59-7-401. Determining threshold level of business activity for corporations organized or incorporated outside of the United States.

(1) Except as provided in Subsection (2), in determining whether a corporation is a foreign operating company or has met the threshold level of business activity, business activity within and without the United States shall be measured by means of the factors ordinarily applicable under Sections 59-7-312 through 59-7-319.

(2) (a) Any taxpayer who would ordinarily be required to apportion business income in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, shall use a two-factor formula of property and payroll.

(b) The results of the property and payroll factor computation shall be divided by

two, or by one if either the property or payroll factor has a denominator of zero.

Amended by Chapter 225, 2005 General Session

59-7-402. Water's edge combined report.

(1) Except as provided in Section 59-7-403, if any corporation listed in Subsection 59-7-101(36)(a) is doing business in Utah, the unitary group shall file a water's edge combined report.

(2) (a) A group of corporations that are not otherwise a unitary group may elect to file a water's edge combined report if each member of the group is:

(i) doing business in Utah;

(ii) part of the same affiliated group; and

(iii) qualified, under Section 1501, Internal Revenue Code, to file a federal consolidated return.

(b) Each corporation within the affiliated group that is doing business in Utah must consent to filing a combined report. If an affiliated group elects to file a combined report, each corporation within the affiliated group that is doing business in Utah must file a combined report.

(c) Corporations that elect to file a water's edge combined report under this section may not thereafter elect to file a separate return without the consent of the commission.

Amended by Chapter 312, 2009 General Session

59-7-403. Worldwide combined report.

(1) A unitary group may elect to file a worldwide combined report.

(2) Corporations electing to file a worldwide combined report may not thereafter elect to file a return on a basis other than a worldwide combined report without the consent of the commission.

Enacted by Chapter 169, 1993 General Session

59-7-404. Calculation of unadjusted income for combined reporting.

(1) A group filing a combined report under Section 59-7-402 or 59-7-403 shall calculate unadjusted income of the combined group by:

(a) computing unadjusted income on a separate return basis;

(b) combining income or loss of the members included in the combined report; and

(c) making appropriate eliminations and adjustments between members included in the combined report.

(2) For purposes of this section, if an entity does not calculate federal taxable income, then unadjusted income shall be calculated based on the applicable federal tax laws.

Amended by Chapter 83, 1994 General Session

59-7-404.5. Adjustment to apportionment factors for corporations in a combined report -- Sales factor -- Property factor.

For purposes of apportionment under Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions:

(1) corporations filing a combined report under Section 59-7-402 or 59-7-403 may not include intercompany sales or other intercompany transactions between the corporations included in the combined report in determining the sales factor;

(2) corporations filing a combined report under Section 59-7-402 or 59-7-403 may not include intercompany rents or other intercompany transactions between the corporations included in the combined report in determining the property factor; and

(3) the amounts of the numerators in this state of the property, payroll, and sales factors of an out-of-state business, as defined in Section 53-2a-1202, that are directly related to disaster- or emergency-related work, as defined in Section 53-2a-1202, during a disaster period, as defined in Section 53-2a-1202, may not be included in the apportionment fraction of the combined group.

Amended by Chapter 376, 2014 General Session

59-7-405. Commission empowered to make rules.

The commission shall prescribe such rules as necessary to reflect a corporation's tax liability and to prevent avoidance of corporate tax liability in accordance with the provisions of this part.

Enacted by Chapter 169, 1993 General Session

59-7-501. Accounting periods -- Methods of accounting.

(1) Utah taxable income shall be computed upon the basis of:

(a) the same taxable period used for federal income tax purposes;

(b) the corporation's annual accounting period if the corporation did not file a federal income tax return; or

(c) the calendar year if the corporation has an annual accounting period other than a fiscal year, has no annual accounting period, or does not keep books, and does not file a federal income tax return.

(2) (a) Utah taxable income shall be computed under the method of accounting on the basis of which the corporation computes:

(i) its income for federal income tax purposes; or

(ii) its income in keeping its books if the corporation did not file a federal income tax return.

(b) If no method of accounting has been regularly used by the corporation or if the method employed does not clearly reflect Utah taxable income computed and apportioned to this state for the taxable year, Utah taxable income shall be computed in accordance with a method which in the opinion of the commission clearly reflects Utah taxable income.

(3) If a corporation is required under Public Law 99-514, or successor statute, to change its method of accounting from the cash receipts and disbursements method to

an accrual method or other permissible method, the transition period provision of Public Law 99-514, or successor statute, for taking into account the adjustments required by reasons of such change shall be followed.

(4) The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under the methods of accounting permitted under this section, any such amounts are to be properly accounted for as of a different period.

(5) The subtractions provided for in this chapter shall be taken for the taxable year in which "paid or accrued" or "paid or incurred," dependent upon the method of accounting upon the basis of which Utah taxable income is computed, unless in order to clearly reflect the income the subtractions ought to be taken as of a different period.

(6) For purposes of Subsections (4) and (5), transition periods for reporting income or deductions permitted or required by Public Law 99-514, or successor statute, shall be followed.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-502. Change of taxable year or accounting period.

(1) If a corporation changes its taxable year for federal income tax purposes, the new taxable year shall become the corporation's taxable year for Utah corporate franchise or income tax purposes.

(2) If a corporation which does not file a federal tax return changes its accounting period, the new accounting period shall become the corporation's taxable year for Utah corporate franchise or income tax purposes if the change is approved by the commission.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-503. Return where period changed.

(1) If a corporation changes its taxable year in accordance with Section 59-7-502, a short period return shall be made for the period of less than 12 months between the close of the last taxable year for which a return was made and the close of the new taxable year.

(2) Where a short period return is made under Subsection (1) on account of a change in the accounting period, and in any other case where a short period return is required or permitted by rules prescribed by the commission to be made for a fractional part of a year, the tax shall be calculated at the rate provided in Section 59-7-104 for the period covered by the return assignable to business done in Utah.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-504. Estimated tax payments -- Penalty -- Waiver.

(1) Except as otherwise provided in this section, each corporation subject to taxation under this chapter having a tax liability of $3,000 or more in the current tax year, or which had a tax liability of $3,000 or more in the previous tax year, shall make

payments of estimated tax at the same time and using any method provided under Section 6655, Internal Revenue Code.

(2) The following are modifications or exceptions to the provisions of Section 6655, Internal Revenue Code:

(a) for the first year a corporation is required to file a return in Utah, that corporation is not subject to Subsection (1) if it makes a payment on or before the due date of the return, without extensions, equal to or greater than the minimum tax required under Section 59-7-104 or 59-7-201;

(b) the applicable percentage of the required annual payment, as defined in Section 6655, Internal Revenue Code, for annualized income installments, adjusted seasonal installments, and those estimated tax payments based on the current year tax liability shall be:

Installment	Percentage
1st	22.5
2nd	45.0
3rd	67.5
4th	90.0

(c) large corporations shall be treated as any other corporation for purposes of this section; and

(d) if a taxpayer elects a different annualization period than the one used for federal purposes, the taxpayer shall make an election with the Tax Commission at the same time as provided under Section 6655, Internal Revenue Code.

(3) A penalty shall be added as provided in Section 59-1-401 for any quarterly estimated tax payment which is not made in accordance with this section.

(4) There shall be no interest added to any estimated tax payments subject to a penalty under this section.

Amended by Chapter 311, 1995 General Session

59-7-505. Returns required -- When due -- Extension of time -- Exemption from filing.

(1) Each corporation subject to taxation under this chapter shall make a return, except that a group of corporations filing a combined report under Part 4 of this chapter shall file one combined report.

(a) The return shall be signed by a responsible officer of the corporation, the signature of whom need not be notarized but when signed shall be considered as made under oath.

(b) (i) In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, those receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns.

(ii) Any tax due on the basis of such returns made by receivers, trustees, or

assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

(2) Returns shall be made on or before the 15th day of the fourth month following the close of the taxable year.

(3) (a) The commission shall allow a taxpayer an extension of time for filing returns.

(b) The extension under Subsection (3)(a) may not exceed six months.

(4) Each return shall be made to the commission.

(5) A corporation incorporated or qualified to do business in this state prior to January 1, 1973, is not liable for filing a return or paying tax measured by income for the taxable year in which it legally terminates its existence.

(6) A corporation incorporated or qualified to do business or which had its authority to do business reinstated on or after January 1, 1973, shall file a return and pay the tax measured by income for each period during which it had the right to do business in this state, and the return shall be filed and the tax paid within three months and 15 days after the close of this period.

(7) If a corporation terminates its existence under Section 16-10a-1401, no returns are required to be filed if a statement is furnished to the commission that no business has been conducted during that period.

(8) (a) A corporation commencing to do business in Utah after qualification or incorporation with the Division of Corporations and Commercial Code is not required to file a return for the period commencing with the date of incorporation or qualification and ending on the last day of the same month, if that corporation was not doing business in and received no income from sources in the state during such period.

(b) In determining whether a corporation comes within the provisions of this chapter, affidavits on behalf of the corporation that it did no business in and received no income from sources in Utah during such period shall be filed with the commission.

Amended by Chapter 332, 1997 General Session

59-7-507. Payment of tax.

(1) (a) If quarterly estimated payments are not made as provided in Section 59-7-504, the amount of tax imposed by this chapter shall be paid no later than the original due date of the return.

(b) If an extension of time is necessary for filing a return, as provided in Subsection 59-7-505(3) or Section 59-7-803, payment must be made no later than the original due date of the return in an amount equal to the lesser of:

(i) The greater of:

(A) 90% of the total tax reported on the return for the current taxable year; or

(B) 100% of the minimum tax described in Section 59-7-104; or

(ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.

(c) If payment is not made as provided in Subsection (1)(b), the commission shall add an extension penalty as provided in Section 59-1-401, until the tax is paid during the period of extension.

(2) (a) At the request of the taxpayer, the commission may extend the time for payment of the amount determined as the tax by the taxpayer, or any part of that amount, for a period not to exceed six months from the date prescribed for the payment of the tax.

(b) For purposes of Subsection (2)(a), the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

Amended by Chapter 269, 2007 General Session

59-7-508. Audit of returns.

As soon as practicable after the return is filed the commission shall examine it and shall determine the correct amount of the tax.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-509. Failure to file return -- Penalty.

In case of any failure to make and file a return required by this chapter within the time prescribed by law or prescribed by the commission in pursuance of law, there shall be added to the amount required to be shown as tax on the return a penalty as provided in Section 59-1-401. The amounts so added to any tax shall be collected at the same time and in the same manner and as a part of the tax, unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-510. Deficiency -- Interest.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the commission, and shall be collected as a part of the tax at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

59-7-511. Penalty added to underpayments.

A penalty shall be added to underpayments of tax as provided in Section 59-1-401.

Amended by Chapter 93, 1994 General Session

59-7-512. Addition to tax in case of nonpayment.

Where the entire amount determined by the taxpayer as the tax imposed by this chapter is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax interest upon such unpaid amount at the rate and in the

manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

59-7-513. Interest when time for payment extended.

If the time for payment of the amount determined as the tax by the taxpayer is extended under the authority of Subsection 59-7-507(2), there shall be collected as a part of such amount interest at the rate prescribed in Section 59-1-402 from the date when such payment should have been made, if no extension had been granted, until payment is received.

Amended by Chapter 1, 1993 Special Session 2

59-7-514. Extension of time to pay deficiency.

(1) Where it is shown to the satisfaction of the commission that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the taxpayer, the commission (except where the deficiency is due to negligence, to intentional disregard of rules, or to fraud with intent to evade tax) may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of six months.

(2) If an extension is granted, the commission may require the taxpayer to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties as the commission deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-515. Interest when deficiency extended.

(1) If the time for the payment of any part of a deficiency is extended, the commission shall collect as a part of the tax interest on the part of the deficiency (the time for payment of which is so extended) at the rate prescribed in Section 59-1-402 for the period of the extension, and shall collect no other interest on such part of the deficiency for such period.

(2) If the part of the deficiency (the time for payment of which is so extended) is not paid in accordance with the terms of the extension, the commission shall collect as a part of the tax interest on such unpaid amount at the rate prescribed in Section 59-1-402 for the period from the time fixed by the terms of the extension for its payment until it is paid, and shall collect no other interest on such unpaid amount for such period.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-519. Period of limitation for making assessments -- Change, correction, or amendment of federal income tax -- Duty of corporation to notify state -- Extensions.

(1) (a) Subject to the other provisions of this section, the amount of taxes imposed by this chapter shall be assessed within three years after a return is filed.

(b) After the expiration of the time period described in Subsection (1)(a), a proceeding in court may not be made without assessment for the collection of the taxes described in Subsection (1)(a).

(2) In the case of a deficiency attributable to the application of a net loss carryback, the deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net loss that results in the carryback may be assessed.

(3) If the amount of federal taxable income for any year of any corporation as returned to the United States treasury department is changed or corrected by the commissioner of internal revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change of federal taxable income, a taxpayer shall:

(a) report the change or corrected net income within 90 days after the final determination of the change or correction as required to the commission; and

(b) concede the accuracy of the determination or state where the determination is erroneous.

(4) Any corporation filing an amended return with the United States treasury department shall also file, within 90 days after the corporation files the amended return with the United States treasury department, an amended return with the commission that contains the information the commission requires.

(5) If a corporation fails to report a change or correction by the commissioner of internal revenue, other officer of the United States, or other competent authority or fails to file an amended return, any deficiency resulting from the change or correction may be assessed and collected within three years after the change, correction, or amended return is reported to or filed with the federal government.

(6) If any corporation agrees with the commissioner of internal revenue for an extension, or a renewal of an extension, of the period for proposing and assessing deficiencies in federal income tax for any year, the period for sending a notice of proposed Utah tax deficiencies for that year is the later of:

(a) three years after the return is filed; or

(b) six months after the date of the expiration of the agreed period for assessing deficiencies in federal income tax.

(7) The extensions described in Section 59-1-1418 apply to this section.

Amended by Chapter 212, 2009 General Session

59-7-522. Overpayments.

(1) (a) Subject to Subsection (1)(b), a claim for credit or refund of an overpayment that is attributable to a Utah net loss carry back or carry forward shall be filed within three years from the due date of the return for the taxable year of the Utah net loss.

(b) The three-year period described in Subsection (1)(a) shall be extended by any extension of time provided in statute for filing the return described in Subsection

(1)(a).

(2) If an overpayment relates to a change in or correction of federal taxable income described in Section 59-7-519, a credit may be allowed or a refund paid any time before the expiration of the period within which a deficiency may be assessed.

(3) The commission shall make a credit or refund within a 30-day period after the day on which a court's decision to require the commission to credit or refund the amount of an overpayment to a taxpayer is final.

Amended by Chapter 216, 2010 General Session

59-7-528. Failure to make return or supply information -- Penalty.

Each officer or employee of any corporation, who, without fraudulent intent, fails to make, render, sign, or verify any return, or to supply any information within the time required by or under the provisions of this chapter, shall be liable for a penalty as provided in Section 59-1-401, assessed and collected by the commission in the same manner as is provided in this chapter with regard to delinquent taxes.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-529. General violations and penalties.

(1) Each person who, without fraudulent intent, fails to make, render, sign, or verify any return, or to supply any information within the time required by or under the provisions of this chapter, is liable for a civil penalty as provided in Section 59-1-401 imposed, assessed, and collected by the commission in the same manner as provided by this chapter for delinquent taxes.

(2) It is unlawful for any person, with intent to evade any tax, to fail to timely remit the full amount of tax required by the provisions of this chapter. A violation of this section is punishable as provided in Section 59-1-401.

(3) Each person who knowingly or intentionally makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information is guilty of a criminal violation as provided in Section 59-1-401.

(4) Each person who, with intent to evade any tax or any requirement of this chapter, fails to make, render, sign, or verify any return, or supply any information within the time required under the provisions of this chapter, is guilty of a criminal violation as provided in Section 59-1-401.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-530. Power to waive penalties or interest.

The commission may waive penalties or interest as provided in Section 59-1-401.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-531. Venue of offenses -- Evidence.

(1) The failure to do any act required by the provisions of this chapter shall be considered an act committed in part at the office of the commission.

(2) The certificate of the commission that a tax has not been paid, that a return has not been filed, or that information has not been supplied, as required by or under the provisions of this chapter, shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-532. Revenue received by commission -- Deposit with state treasurer -- Distribution or crediting to Education Fund -- Refund claim payments.

(1) All revenue collected or received by the commission under this chapter shall be deposited daily with the state treasurer. Such revenue, subject to the refund provisions of this section, shall be periodically distributed or credited to the Education Fund.

(2) The commission shall from time to time certify to the state auditor the amount of any refund authorized by it, the amount of interest computed on it under the provisions of Section 59-7-533, from whom the tax to be refunded was collected, or by whom it was paid, and such refund claims shall be paid in order out of the funds first accruing to the Education Fund from the provisions of this section.

Amended by Chapter 122, 2007 General Session

59-7-533. Interest on overpayments.

Interest shall be allowed and paid upon any overpayment in respect of any tax imposed by this chapter at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

59-7-534. Failure to pay tax -- Suspension or forfeiture of corporate rights.

(1) If a tax computed and levied under this chapter is not paid before 5 p.m. on the last day of the 11th month after the date of delinquency, the corporate powers, rights, and privileges of the delinquent taxpayer, if it is a domestic corporation, shall be suspended, and if a foreign corporation, it shall forfeit its rights to do intrastate business in this state.

(2) The commission shall transmit the name of each such corporation to the Division of Corporations and Commercial Code, which shall immediately record the same in such manner that it may be available to the public. This suspension or forfeiture shall become effective from the time such record is made, and the certificate of the Division of Corporations and Commercial Code shall be prima facie evidence of such suspension or forfeiture.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-535. Doing business after suspension or forfeiture of certain corporate powers, rights, and privileges -- Penalty.

(1) A person is guilty of a class B misdemeanor if:

(a) the person's corporate powers, rights, and privileges have been suspended in accordance with Section 59-7-534; and

(b) the person:

(i) attempts or purports to exercise any of the rights, privileges, or powers of a suspended domestic corporation; or

(ii) transacts or attempts to transact any intrastate business in this state in behalf of a forfeited foreign corporation.

(2) Jurisdiction of the offense shall be in any county in which any part of an action described in Subsection (1)(b) occurred.

(3) Any contract made in violation of this section is unenforceable by a corporation or person described in Subsection (1).

Amended by Chapter 120, 2013 General Session

59-7-536. Relief in case of suspension or forfeiture.

(1) (a) Any corporation which has suffered the suspension or forfeiture referred to in Section 59-7-534 may be relieved from that suspension or forfeiture by applying for that relief in writing, paying the tax and the interest and penalties for nonpayment of which the suspension or forfeiture occurred, and paying a reinstatement fee of $100. If the corporation has done business in this state during the period of such suspension, a tax shall be computed according to this chapter for each year in which the business was done, and the tax shall be added to the delinquency and penalties provided in this section. If the due date of any return required in this section has not passed, a return need not be filed until that due date.

(b) Application for revivor may be made by any stockholder or creditor of the corporation or by a majority of the surviving trustees or directors, and the same shall be filed with the Division of Corporations and Commercial Code. Upon payment to the commission of the taxes, penalties, and reinstatement fee provided for in this section, the Division of Corporations and Commercial Code shall issue a certificate of revivor, and the applicant shall be revived. The revivor shall be without prejudice to any action, defense, or right which has accrued by reason of the original suspension or forfeiture. The certificate of revivor is prima facie evidence of the revivor.

(2) If any corporation has adopted, subsequent to such suspension or forfeiture, any name so closely resembling the name of the reviving corporation as will tend to deceive, then the reviving corporation is entitled to a certificate of revivor pursuant to the terms of this section only upon adopting a new name, and in such case nothing in this section may be construed as permitting the reviving corporation to carry on any business under its former name. The reviving corporation may use its former name or may take the new name only upon filing an application for it with the Division of Corporations and Commercial Code, and upon the issuing of a certificate to such corporation by the Division of Corporations and Commercial Code, setting forth the right of such corporation to take such new name or use its former name as the case

may be. The Division of Corporations and Commercial Code may not issue any certificate permitting any corporation to take or use the name of any corporation already organized in this state and which has not suffered a forfeiture, or take or use a name so closely resembling the name of any corporation already organized in this state as will tend to deceive.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-537. Confidentiality of information.

The confidentiality of returns and other information filed with the commission shall be governed by Section 59-1-403.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-601. Credit of interest income from state and federal securities.

(1) There shall be allowed as a credit against the tax an amount equal to 1% of the gross interest income included in state taxable income from:

(a) bonds, notes, or other evidences of indebtedness issued by the state and its agencies and instrumentalities, and bonds, notes, or other evidences of indebtedness of any political subdivision as described in Section 11-14-303; and

(b) stocks, notes, or obligations issued by, or guaranteed by the United States Government, or any of its agencies and instrumentalities as defined under federal law.

(2) Amounts otherwise qualifying for the credit, but not allowable because the credit exceeds the tax, may be carried back three years or may be carried forward five years as a credit against the tax. Such carryover credits shall be applied against the tax before the application of the credits earned in the current year and on a first-earned first-used basis.

Amended by Chapter 105, 2005 General Session

59-7-602. Credit for cash contributions to sheltered workshops.

(1) For tax years beginning January 1, 1983, and thereafter, in computing the tax due the state of Utah pursuant to Section 59-7-104, there shall be a tax credit allowed for cash contributions made within the taxable year to nonprofit rehabilitation sheltered workshop facilities for people with a disability operating in Utah which are certified by the Department of Human Services as a qualifying facility. The allowable credit is an amount equal to 50% of the aggregate amount of the cash contributions to qualifying rehabilitation facilities, but in no case shall the credit allowed exceed $1,000.

(2) If a taxpayer has subtracted an amount for cash contributions to a sheltered workshop when determining federal taxable income, that amount shall be added back under Section 59-7-105 before a credit may be taken under this section.

Amended by Chapter 366, 2011 General Session

59-7-603. Credit for sophisticated technological equipment donated to

schools.

(1) A taxpayer subject to the corporate franchise provisions of Section 59-7-104 is entitled to a tax credit in an amount equal to 25% of the fair market value of high technology contributions to public education, not to exceed the basis of the property contributed. Fair market value shall not exceed the original cost of the property.

(2) As used in this section, "high technology contribution" means a contribution of tangible personal property subject to the following requirements:

(a) the property is a computer, sophisticated technological equipment, or other apparatus intended for use with a computer to be used directly in the education of students;

(b) the contribution is to a public elementary, secondary, or accredited post-secondary school located in the state;

(c) the contribution is made not later than two years after the date its construction is substantially completed;

(d) the property is used exclusively by the donee;

(e) the property is not transferred by the donee in exchange for money, other property, or services; and

(f) the taxpayer receives a written statement from the donee signifying approval of the property and representing that its use and disposition will be in accordance with the provisions of this section.

(3) If a taxpayer has subtracted an amount for sophisticated technological equipment donated to schools when determining federal taxable income, that amount shall be added back under Section 59-7-105 before a credit may be taken under this section.

Enacted by Chapter 169, 1993 General Session

59-7-605 (Superseded 01/01/15). Definitions -- Cleaner burning fuels tax credit.

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in:

(i) bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6); or

(ii) for a new qualified plug-in electric drive motor vehicle, as defined in Section 30D, Internal Revenue Code, bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(c) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and

(B) as a result of the installation of conversion equipment on the motor vehicle,

the motor vehicle has reduced emissions; or

(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.

(d) "Clean fuel grant" means a grant awarded under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

(e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

(f) "OEM vehicle" has the same meaning as in Section 19-1-402.

(g) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) "Qualifying electric or hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) is fueled by:

(A) electricity only; or

(B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and ethanol, or propane; and

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(h)(iii).

(i) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance

with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(j) "Special mobile equipment":

(i) means any mobile equipment or vehicle that is not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For the taxable year beginning on or after January 1, 2014, but beginning on or before December 31, 2014, a taxpayer may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

(a) $605 for the original purchase of a new qualifying electric or hybrid vehicle that is registered in this state;

(b) for the purchase of a vehicle fueled by natural gas that is registered in this state, the lesser of:

(i) $2,500; or

(ii) 35% of the purchase price of the vehicle;

(c) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel grant received, up to a maximum tax credit of $2,500 per motor vehicle, if the motor vehicle is to:

(i) be fueled by propane, natural gas, or electricity;

(ii) be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or

(iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

(d) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of $1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed.

(3) A taxpayer shall provide proof of the purchase of an item for which a tax credit is allowed under this section by:

(a) providing proof to the board in the form the board requires by rule;

(b) receiving a written statement from the board acknowledging receipt of the proof; and

(c) retaining the written statement described in Subsection (3)(b).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the taxpayer;

(b) for the taxable year in which an item described in Subsection (2)(a) or (b) is

purchased or conversion equipment described in Subsection (2)(c) or (d) is installed; and

(c) once per vehicle.

(5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(6) In accordance with any rules prescribed by the commission under Subsection (7), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds $500,000.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (6).

Amended by Chapter 184, 2013 General Session

59-7-606. Tax credit -- Items using cleaner burning fuels.

(1) As used in this section, "board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(2) For taxable years beginning on or after January 1, 1992, but prior to January 1, 2003, there is allowed a tax credit against tax otherwise due under this chapter in an amount equal to 10%, up to a maximum of $50, of the total of both the purchase cost and installation services cost of each pellet burning stove, high mass wood stove, and solid fuel burning device purchased and installed that is certified by the federal Environmental Protection Agency in accordance with test procedures prescribed in 40 C.F.R. Sec. 60.534, including purchase cost and installation service cost of natural gas or propane free standing fireplaces or inserts, but not including fireplace logs.

(3) A taxpayer shall provide proof of the purchase of an item for which a tax credit is allowed under this section by:

(a) providing proof to the board in the form the board requires by rule;

(b) receiving a written statement from the board acknowledging receipt of the proof; and

(c) retaining the written statement described in Subsection (3)(b).

(4) The tax credit under this section is allowed only:

(a) against any Utah tax owed in the taxable year by the taxpayer; and

(b) for the taxable year in which the item is purchased for which the tax credit is claimed.

Amended by Chapter 198, 2003 General Session

59-7-607. Utah low-income housing tax credit.

(1) As used in this section:

(a) "Allocation certificate" means:

(i) the certificate prescribed by the commission and issued by the Utah Housing Corporation to each taxpayer that specifies the percentage of the annual federal low-income housing tax credit that each taxpayer may take as an annual credit against state income tax; or

(ii) a copy of the allocation certificate that the housing sponsor provides to the taxpayer.

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Federal low-income housing tax credit" means the tax credit under Section 42, Internal Revenue Code.

(d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership in the case of a partnership, a corporation in the case of an S corporation, or a limited liability company in the case of a limited liability company.

(e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

(f) "Special low-income housing tax credit certificate" means a certificate:

(i) prescribed by the commission;

(ii) that a housing sponsor issues to a taxpayer for a taxable year; and

(iii) that specifies the amount of tax credit a taxpayer may claim under this section if the taxpayer meets the requirements of this section.

(g) "Taxpayer" means a person that is allowed a tax credit in accordance with this section which is the corporation in the case of a C corporation, the partners in the case of a partnership, the shareholders in the case of an S corporation, and the members in the case of a limited liability company.

(2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against taxes otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for taxpayers issued an allocation certificate.

(b) The tax credit shall be in an amount equal to the greater of the amount of:

(i) federal low-income housing tax credit to which the taxpayer is allowed during that year multiplied by the percentage specified in an allocation certificate issued by the Utah Housing Corporation; or

(ii) tax credit specified in the special low-income housing tax credit certificate that the housing sponsor issues to the taxpayer as provided in Subsection (2)(c).

(c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

(i) the total amount of low-income housing tax credit under this section that:

(A) a housing sponsor is allowed for a building; and

(B) all of the taxpayers may claim with respect to the building if the taxpayers meet the requirements of this section; and

(ii) the percentage of tax credit a taxpayer may claim:

(A) under this section if the taxpayer meets the requirements of this section; and

(B) as provided in the agreement between the taxpayer and the housing sponsor.

(d) (i) For the calendar year beginning on January 1, 1995, through the calendar year beginning on January 1, 2015, the aggregate annual tax credit that the Utah

Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-10-1010 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in the residential housing development of which the building is a part;

(ii) the level of area median income being served by the development;

(iii) the need for the tax credit for the economic feasibility of the development; and

(iv) the extended period for which the development commits to remain as affordable housing.

(4) (a) The following may apply to the Utah Housing Corporation for a tax credit under this section:

(i) any housing sponsor that has received an allocation of the federal low-income housing tax credit; or

(ii) any applicant for an allocation of the federal low-income housing tax credit.

(b) The Utah Housing Corporation may not require fees for applications of the tax credit under this section in addition to those fees required for applications for the federal low-income housing tax credit.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors by issuing an allocation certificate to qualifying housing sponsors.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed percentage of the federal low-income housing tax credit as determined by the Utah Housing Corporation.

(c) The percentage specified in an allocation certificate may not exceed 100% of the federal low-income housing tax credit.

(6) A housing sponsor shall provide a copy of the allocation certificate to each taxpayer that is issued a special low-income housing tax credit certificate.

(7) (a) A housing sponsor shall provide to the commission a list of:

(i) the taxpayers issued a special low-income housing tax credit certificate; and

(ii) for each taxpayer described in Subsection (7)(a)(i), the amount of tax credit listed on the special low-income housing tax credit certificate.

(b) A housing sponsor shall provide the list required by Subsection (7)(a):

(i) to the commission;

(ii) on a form provided by the commission; and

(iii) with the housing sponsor's tax return for each taxable year for which the housing sponsor issues a special low-income housing tax credit certificate described in this Subsection (7).

(8) (a) All elections made by the taxpayer pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a taxpayer is required to recapture a portion of any federal low-income housing tax credit, the taxpayer shall also be required to recapture a portion of any state tax credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing tax credit amount subject to recapture.

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in the subsequent year.

(10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the tax credit exceeds the tax, may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

(11) Any tax credit taken in this section may be subject to an annual audit by the commission.

(12) The Utah Housing Corporation shall provide an annual report to the Revenue and Taxation Interim Committee which shall include at least:

(a) the purpose and effectiveness of the tax credits; and

(b) the benefits of the tax credits to the state.

(13) The commission may, in consultation with the Utah Housing Corporation, promulgate rules to implement this section.

Amended by Chapter 223, 2006 General Session

59-7-608. Targeted jobs tax credit.

(1) As used in this section, "individual with a disability" means an individual who:

(a) has been receiving services:

(i) from a day-training program that is:

(A) for persons with disabilities; and

(B) certified by the Department of Human Services as a qualifying program; and

(ii) for at least six consecutive months prior to working for the employer claiming

the tax credit under this section; or

(b) is eligible for services from the Division of Services for People with Disabilities at the time the individual begins working for the employer claiming the tax credit under this section.

(2) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against tax otherwise due under this chapter for an employer that:

(a) meets the unemployment and workers' compensation requirements of Title 34A, Utah Labor Code; and

(b) hires an individual with a disability who:

(i) works in this state for at least 180 days in a taxable year for that employer; and

(ii) is paid at least minimum wages by that employer.

(3) The tax credit shall be in an amount equal to:

(a) 10% of the gross wages earned in the first 180 days of employment by the individual with a disability from the employer seeking the tax credit; and

(b) 20% of the gross wages earned in the remaining taxable year by the individual with a disability from the employer seeking the tax credit.

(4) The tax credit which may be taken by an employer under this section shall be:

(a) limited to $3,000 per year per individual with a disability; and

(b) allowed only for the first two years the individual with a disability is employed by the employer.

(5) Any amount of tax credit remaining may be carried forward two taxable years following the taxable year of the employment eligible for the tax credit provided in this section.

(6) (a) The Division of Services for People with Disabilities shall certify that an employer qualifies for the tax credit provided in this section on a form provided by the commission.

(b) The form described in Subsection (6)(a) shall include the name and Social Security number of the individual for whom the tax credit is claimed.

(c) The Division of Services for People with Disabilities shall provide the employer described in Subsection (6)(a) with a copy of the form described in this Subsection (6).

(d) The employer described in Subsection (6)(a) shall retain the form described in this Subsection (6).

Amended by Chapter 198, 2003 General Session

59-7-609. Historic preservation credit.

(1) (a) For tax years beginning January 1, 1993, and thereafter, there is allowed to a taxpayer subject to Section 59-7-104, as a credit against the tax due, an amount equal to 20% of qualified rehabilitation expenditures, costing more than $10,000, incurred in connection with any residential certified historic building. When qualifying expenditures of more than $10,000 are incurred, the credit allowed by this section shall

apply to the full amount of expenditures.

(b) All rehabilitation work to which the credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the taxpayer in order to preserve the historical qualities of the building.

(c) Any amount of credit remaining may be carried forward to each of the five taxable years following the qualified expenditures.

(d) The commission, in consultation with the Division of State History, shall promulgate rules to implement this section.

(2) As used in this section:

(a) "Certified historic building" means a building that is listed on the National Register of Historic Places within three years of taking the credit under this section or that is located in a National Register Historic District and the building has been designated by the Division of State History as being of significance to the district.

(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to the rehabilitation and restoration of the physical elements of the building, including the historic decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing systems to applicable codes.

(ii) "Qualified rehabilitation expenditures" does not include expenditures related to:

(A) the taxpayer's personal labor;

(B) cost of acquisition of the property;

(C) any expenditure attributable to the enlargement of an existing building;

(D) rehabilitation of a certified historic building without the approval required in Subsection (1)(b); or

(E) any expenditure attributable to landscaping and other site features, outbuildings, garages, and related features.

(c) "Residential" means a building used for residential use, either owner occupied or income producing.

Enacted by Chapter 42, 1995 General Session

59-7-610. Recycling market development zones tax credit.

(1) For taxable years beginning on or after January 1, 1996, a business operating in a recycling market development zone as defined in Section 63M-1-1102 may claim a tax credit as provided in this section.

(a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(II) reduce or reuse postconsumer waste material.

(ii) The Governor's Office of Economic Development shall certify that the

machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:

(A) on a form provided by the commission; and

(B) before a taxpayer is allowed a tax credit under this section.

(iii) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

(iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form received under Subsection (1)(a)(iii).

(b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures up to $10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of $2,000.

(2) The total nonrefundable tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried over for credit against the business' income taxes in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a business on the business' state income tax return within three years are forfeited.

(4) The commission shall make rules governing what information shall be filed with the commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63M-1-413.

(b) For a taxable year other than a taxable year during which the taxpayer may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim or carry forward a tax credit described in Subsection (1)(a):

(i) if the taxpayer may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and

(ii) subject to Subsections (3) and (4).

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63M-1-413.

(7) A taxpayer may not claim or carry forward a tax credit available under this section for a taxable year during which the taxpayer has claimed the targeted business income tax credit available under Section 63M-1-504.

Amended by Chapter 382, 2008 General Session

59-7-612. Tax credits for research activities conducted in the state -- Carry

forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

(1) (a) A taxpayer meeting the requirements of this section may claim the following nonrefundable tax credits:

(i) a research tax credit of 5% of the taxpayer's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection (4);

(ii) a tax credit for a payment to a qualified organization for basic research as provided in Section 41(e), Internal Revenue Code, of 5% for the current taxable year that exceed the base amount provided for under Subsection (4); and

(iii) a tax credit equal to 7.5% of the taxpayer's qualified research expenses for the current taxable year.

(b) Subject to Subsection (5), a taxpayer may claim a tax credit under:

(i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs the qualified research expenses; or

(ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer makes the payment to the qualified organization.

(c) The tax credits provided for in this section do not include the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

(2) For purposes of claiming a tax credit under this section, a unitary group as defined in Section 59-7-101 is considered to be one taxpayer.

(3) Except as specifically provided for in this section:

(a) the tax credits authorized under Subsection (1) shall be calculated as provided in Section 41, Internal Revenue Code; and

(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).

(4) For purposes of this section:

(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

(i) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;

(ii) a taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; and

(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a taxpayer:

(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B) regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II); and

(B) may not revoke an election to be treated as a start-up company under Subsection (4)(a)(iii)(A);

(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state;

(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;

(d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only:

(i) in-house research expenses incurred in this state; and

(ii) contract research expenses incurred in this state; and

(e) a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

(5) (a) If the amount of a tax credit claimed by a taxpayer under Subsection (1)(a)(i) or (ii) exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

(i) may be carried forward for a period that does not exceed the next 14 taxable years; and

(ii) may not be carried back to a taxable year preceding the current taxable year.

(b) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.

(7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(8) (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (7) a modification or repeal of a provision of Section 41, Internal Revenue Code.

(b) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

(c) The Revenue and Taxation Interim Committee shall address in a review under this section:

(i) the cost of the tax credits provided for in this section;

(ii) the purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

(d) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall report its findings to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits.

Amended by Chapter 405, 2012 General Session

59-7-613. Tax credits for machinery, equipment, or both primarily used for conducting qualified research or basic research -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

(1) As used in this section:

(a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state.

(b) "Equipment" includes:

(i) a computer;

(ii) computer equipment; and

(iii) computer software.

(c) "Purchase price":

(i) includes the cost of installing an item of machinery or equipment; and

(ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an item of machinery or equipment.

(d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

(e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state.

(2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after January 1, 1999, but beginning before December 31, 2010, a taxpayer meeting the requirements of this section may claim the following nonrefundable tax credits:

(i) a tax credit of 6% of the purchase price of machinery, equipment, or both:

(A) purchased by the taxpayer during the taxable year;

(B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and

(C) that is primarily used to conduct qualified research in this state; and

(ii) a tax credit of 6% of the purchase price of machinery, equipment, or both:

(A) purchased by the taxpayer during the taxable year;

(B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;

(C) that is donated to a qualified organization; and

(D) that is primarily used to conduct basic research in this state.

(b) Subject to Subsection (5), a taxpayer may claim a tax credit under this section for the taxable year for which the taxpayer purchases the machinery, equipment, or both.

(c) If a taxpayer qualifies for a tax credit under Subsection (2)(a) for a purchase of machinery, equipment, or both, the taxpayer may not claim the tax credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to conduct qualified research in the state for a time period that is less than 12 consecutive months.

(3) For purposes of claiming a tax credit under this section, a unitary group as defined in Section 59-7-101 is considered to be one taxpayer.

(4) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

(5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

(a) may be carried forward for a period that does not exceed the next 14 taxable years; and

(b) may not be carried back to a taxable year preceding the current taxable year.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that machinery, equipment, or both provided to the qualified organization is to be primarily used to conduct basic research in this state.

(7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(8) (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (7) a modification or repeal of a provision of Section 41, Internal Revenue Code.

(b) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

(c) The Revenue and Taxation Interim Committee shall address in a review under this section the:

(i) cost of the tax credits provided for in this section;

(ii) purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

(d) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall report its findings to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits.

Amended by Chapter 384, 2011 General Session

59-7-614 (Superseded 01/01/15). Renewable energy systems tax credit -- Definitions -- Limitations -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident

solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment for use in converting material into biomass energy, as defined in Section 59-12-102, and transporting that energy by separate apparatus to the point of use or storage.

(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.

(d) "Commercial energy system" means any active solar, passive solar, geothermal electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure that a business entity uses to transact its business.

(ii) Notwithstanding Subsection (1)(f)(i):

(A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure that a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Direct-use geothermal system" means a system of apparatus and equipment enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit, that is contained in the earth to meet energy needs, including heating a building, an industrial process, and aquaculture.

(h) "Geothermal electricity" means energy contained in heat that continuously flows outward from the earth that is used as a sole source of energy to produce electricity.

(i) "Geothermal heat-pump system" means a system of apparatus and equipment enabling the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit to help meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

(k) "Individual taxpayer" means any person who is a taxpayer as defined in Section 59-10-103 and an individual as defined in Section 59-10-103.

(l) "Office" means the Office of Energy Development created in Section 63M-4-401.

(m) "Passive solar system":

(i) means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(ii) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(n) "Residential energy system" means any active solar, passive solar, biomass, direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to supply energy to or for any residential unit.

(o) "Residential unit" means any house, condominium, apartment, or similar dwelling unit that serves as a dwelling for a person, group of persons, or a family but does not include property subject to a fee under:

(i) Section 59-2-404;

(ii) Section 59-2-405;

(iii) Section 59-2-405.1;

(iv) Section 59-2-405.2; or

(v) Section 59-2-405.3.

(p) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) (a) (i) For taxable years beginning on or after January 1, 2007, a business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the business entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this Subsection (2)(a).

(ii) (A) A business entity is entitled to a tax credit equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(B) The total amount of each credit under this Subsection (2)(a) may not exceed $2,000 per residential unit.

(C) The credit under this Subsection (2)(a) is allowed for any residential energy system completed and placed in service on or after January 1, 2007.

(iii) If a business entity sells a residential unit to an individual taxpayer before making a claim for the tax credit under this Subsection (2)(a), the business entity may:

(A) assign its right to this tax credit to the individual taxpayer; and

(B) if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the individual taxpayer had completed or participated in the costs of the residential energy system under Section 59-10-1014.

(b) (i) For taxable years beginning on or after January 1, 2007, a business entity that purchases or participates in the financing of a commercial energy system situated in Utah is entitled to a refundable tax credit as provided in this Subsection (2)(b) if the

commercial energy system does not use wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity, and:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in service.

(B) Notwithstanding Subsection (2)(b)(ii)(A), the total amount of the credit under this Subsection (2)(b) may not exceed $50,000 per commercial unit.

(C) The credit under this Subsection (2)(b) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(iv) Only the principal recovery portion of the lease payments, which is the cost incurred by a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

(v) A business entity that leases a commercial energy system is eligible to use the tax credit under this Subsection (2)(b) for a period no greater than seven years from the initiation of the lease.

(vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or carried back.

(c) (i) For taxable years beginning on or after January 1, 2007, a business entity that owns a commercial energy system situated in Utah using wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity is entitled to a refundable tax credit as provided in this Subsection (2)(c) if:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit under this section equal to the product of:

(I) 0.35 cents; and

(II) the kilowatt hours of electricity produced and either used or sold during the taxable year.

(B) (I) The credit calculated under Subsection (2)(c)(ii)(A) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(II) The credit allowed by this Subsection (2)(c) for each year may not be carried forward or carried back.

(C) The credit under this Subsection (2)(c) is allowed for any commercial energy

system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year in which the energy system is completed and placed in service.

(ii) Additional energy systems or parts of energy systems may be claimed for subsequent years.

(iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the credit exceeding the liability may be carried forward for a period which does not exceed the next four taxable years.

(3) (a) Except as provided in Subsection (3)(b), the tax credits provided for under Subsection (2) are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(b) A purchaser of one or more solar units that claims a tax credit under Section 59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

(c) (i) The office may set standards for residential and commercial energy systems claiming a credit under Subsections (2)(a) and (b) that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(ii) The office may set standards for residential and commercial energy systems that establish the reasonable costs of an energy system, as used in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production.

(iii) A tax credit may not be taken under Subsection (2) until the office has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(d) The office and the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.

(4) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (4)(a) shall include information concerning the cost of the credit, the purpose and effectiveness of the credit, and the state's benefit from the credit.

Amended by Chapter 37, 2012 General Session

59-7-614.1. Refundable tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.

(1) For taxable years beginning on or after January 1, 2004, a taxpayer may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the taxpayer pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than $250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A taxpayer:

(a) shall retain the following to establish the amount of tax the resident or nonresident individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i):

(i) a receipt;

(ii) an invoice; or

(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection (3)(b), the commission shall:

(i) make a refund to a taxpayer that claims a tax credit under this section if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter; and

(ii) transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a taxpayer as required by Subsection (3)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (3)(a)(ii).

Amended by Chapter 382, 2008 General Session

59-7-614.2. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a taxpayer that meets the definition of "business entity" as defined in Section 63M-1-2403.

(b) "Community development and renewal agency" is as defined in Section 17C-1-102.

(c) "Local government entity" is as defined in Section 63M-1-2403.

(d) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, a business entity, local government entity, or community development and renewal agency may claim a

refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity, local government entity, or community development and renewal agency for the taxable year.

(4) A community development and renewal agency may claim a tax credit under this section only if a local government entity assigns the tax credit to the community development and renewal agency in accordance with Section 63M-1-2404.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall make a refund to the following that claim a tax credit under this section:

(i) a local government entity;

(ii) a community development and renewal agency; or

(iii) a business entity if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity, local government entity, or community development and renewal agency as required by Subsection (5)(a).

(6) (a) On or before October 1, 2013, and every five years after October 1, 2013, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (6), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each business entity, local government entity, or community development and renewal agency for each calendar year;

(ii) the criteria that the office uses in granting a tax credit;

(iii) (A) for a business entity, the new state revenues generated by the business entity for the calendar year; or

(B) for a local government entity, regardless of whether the local government entity assigns the tax credit in accordance with Section 63M-1-2404, the new state revenues generated as a result of a new commercial project within the local government entity for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section 63M-1-2406; and

(v) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (6)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 246, 2012 General Session

Amended by Chapter 410, 2012 General Session

59-7-614.3. Nonrefundable tax credit for qualifying solar projects.

(1) As used in this section:

(a) "Active solar system" is as defined in Section 59-7-614.

(b) "Purchaser" means a taxpayer that purchases one or more solar units from a qualifying political subdivision.

(c) "Qualifying political subdivision" means:

(i) a city or town in this state;

(ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act; or

(iii) a special service district created under Title 17D, Chapter 1, Special Service District Act.

(d) "Qualifying solar project" means the portion of an active solar system:

(i) that a qualifying political subdivision:

(A) constructs;

(B) controls; or

(C) owns;

(ii) with respect to which the qualifying political subdivision described in Subsection (1)(c)(i) sells one or more solar units; and

(iii) that generates electrical output that is furnished:

(A) to one or more residential units; or

(B) for the benefit of one or more residential units.

(e) "Residential unit" is as defined in Section 59-7-614.

(f) "Solar unit" means a portion of the electrical output:

(i) of a qualifying solar project;

(ii) that a qualifying political subdivision sells to a purchaser; and

(iii) the purchase of which requires that the purchaser agree to bear a proportionate share of the expense of the qualifying solar project:

(A) in accordance with a written agreement between the purchaser and the qualifying political subdivision;

(B) in exchange for a credit on the purchaser's electrical bill; and

(C) as determined by a formula established by the qualifying political subdivision.

(2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2008, a purchaser may claim a nonrefundable tax credit equal to the product of:

(a) the amount the purchaser pays to purchase one or more solar units during the taxable year; and

(b) 25%.

(3) For a taxable year, a tax credit under this section may not exceed $2,000 on a return.

(4) A purchaser may carry forward a tax credit under this section for a period that does not exceed the next four taxable years if:

(a) the purchaser is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter for that taxable year.

(5) Subject to Section 59-7-614, a tax credit under this section is in addition to any other tax credit allowed by this chapter.

(6) (a) On or before October 1, 2012, and every five years after October 1, 2012, the Revenue and Taxation Interim Committee shall review the tax credit allowed by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (6)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.

Amended by Chapter 384, 2011 General Session

59-7-614.4. Tax credit for pass-through entity taxpayer.

(1) As used in this section:

(a) "Pass-through entity" is as defined in Section 59-10-1402.

(b) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(2) A pass-through entity taxpayer may claim a refundable tax credit against the tax otherwise due under this chapter.

(3) The tax credit described in Subsection (2) is equal to the amount paid or withheld by the pass-through entity on behalf of the pass-through entity taxpayer described in Subsection (2) in accordance with Section 59-10-1403.2.

(4) A pass-through entity taxpayer may not claim a tax credit under this section for an amount for which the pass-through entity taxpayer claims a tax credit under Section 59-10-1103.

Enacted by Chapter 312, 2009 General Session

59-7-614.5. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a taxpayer that meets the definition of a motion picture company under Section 63M-1-1802.

(b) "Office" means the Governor's Office of Economic Development.

(c) "State-approved production" has the same meaning as defined in Section 63M-1-1802.

(2) For taxable years beginning on or after January 1, 2009, a motion picture company may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section 63M-1-1803 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the

motion picture company's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

(5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each motion picture company for each calendar year;

(ii) the criteria that the office uses in granting the tax credit;

(iii) the dollars left in the state, as defined in Section 63M-1-1802, by each motion picture company for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section 63M-1-1805; and

(v) any other information requested by the Revenue and Taxation Interim Committee.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 246, 2012 General Session

59-7-614.6. Refundable tax credit for certain business entities generating state tax revenue increases.

(1) As used in this section:

(a) "Eligible business entity" is as defined in Section 63M-1-2902.

(b) "Eligible new state tax revenues" is as defined in Section 63M-1-2902.

(c) "Office" means the Governor's Office of Economic Development.

(d) "Pass-through entity" is as defined in Section 59-10-1402.

(e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(f) "Qualifying agreement" means an agreement under Subsection 63M-1-2908 that includes a provision for an eligible business entity to make new capital expenditures of at least $1,000,000,000 in the state.

(2) Subject to the other provisions of this section, an eligible business entity may:

(a) claim a refundable tax credit as provided in Subsection (3); or

(b) if the eligible business entity is a pass-through entity, pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that the eligible business entity could otherwise claim under this

section.

(3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit an eligible business entity may claim or pass through is the amount listed on the tax credit certificate that the office issues to the eligible business entity for a taxable year in accordance with Section 63M-1-2908.

(b) Subject to Subsection (3)(c), a tax credit under this section may not exceed the amount of eligible new state tax revenues generated by an eligible business entity for the taxable year for which the eligible business entity claims a tax credit under this section.

(c) A tax credit under this section for an eligible business entity that enters into a qualifying agreement may not exceed:

(i) for the taxable year in which the eligible business entity first generates eligible new state tax revenues and the two following years, the amount of eligible new state tax revenues generated by the eligible business entity; and

(ii) for the seven taxable years following the last of the three taxable years described in Subsection (3)(c)(i), 75% of the amount of eligible new state tax revenues generated by the eligible business entity.

(4) An eligible business entity may only claim or pass through a tax credit under this section for a taxable year for which the eligible business entity holds a tax credit certificate issued in accordance with Section 63M-1-2908.

(5) An eligible business entity may not:

(a) carry forward or carry back a tax credit under this section; or

(b) claim or pass through a tax credit in an amount greater than the amount listed on a tax credit certificate issued in accordance with Section 63M-1-2908 for a taxable year.

Amended by Chapter 423, 2012 General Session

59-7-614.7. Nonrefundable alternative energy development tax credit.

(1) As used in this section:

(a) "Alternative energy entity" is as defined in Section 63M-4-502.

(b) "Alternative energy project" is as defined in Section 63M-4-502.

(c) "Office" is as defined in Section 63M-4-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax

liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy project;

(iii) the information contained in the office's latest report to the Legislature under Section 63M-4-505; and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Enacted by Chapter 410, 2012 General Session

59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.

(1) As used in this section:

(a) "Alternative energy entity" is as defined in Section 63M-1-3102.

(b) "Alternative energy manufacturing project" is as defined in Section 63M-1-3102.

(c) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy manufacturing as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 1, Part 31, Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy manufacturing project;

(iii) the information contained in the office's latest report to the Legislature under Section 63M-1-3105; and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Enacted by Chapter 410, 2012 General Session

59-7-614.9. Nonrefundable tax credit for employing a recently deployed veteran.

(1) As used in this section, "recently deployed veteran" means an individual who:

(a) was mobilized to active federal military service in:

(i) an active component of the United States Armed Forces as defined in Section 59-10-1027; or

(ii) a reserve component of the United States Armed Forces as defined in Section 59-10-1027; and

(b) received an honorable or general discharge from active federal military service under Subsection (1)(a) within the two-year period before the date the employment begins.

(2) A corporation may claim a nonrefundable tax credit as provided in this section against a tax under this chapter if the corporation employs a recently deployed veteran on or after January 1, 2012, who:

(a) (i) is collecting or is eligible to collect unemployment benefits under Title 35A, Chapter 4, Part 4, Benefits and Eligibility; or

(ii) within the last two years, has exhausted the unemployment benefits under Subsection (2)(a)(i); and

(b) works for the corporation at least 35 hours per week for not less than 45 of the 52 weeks following the recently deployed veteran's start date for the employment.

(3) A tax credit:

(a) earned under this section shall be claimed beginning in the year the requirements of Subsection (2) are met;

(b) for the first taxable year, is equal to $200 for each month of employment not to exceed $2,400 for the taxable year for each recently deployed veteran; and

(c) for the second taxable year, is equal to $400 for each month of employment

not to exceed $4,800 for the taxable year for each recently deployed veteran.

(4) A corporation that claims a tax credit under this section shall retain the following for each recently deployed veteran for which a tax credit is claimed under this section:

(a) the recently deployed veteran's:

(i) name;

(ii) taxpayer identification number;

(iii) last known address;

(iv) start date for the employment; and

(v) documentation establishing that the recently deployed veteran was employed as required under Subsection (2)(b);

(b) documentation provided by the recently deployed veteran's military service unit establishing that the recently deployed veteran is a recently deployed veteran; and

(c) a signed statement from the Department of Workforce Services that the recently deployed veteran meets the requirements of Subsection (2)(a) regarding unemployment benefits.

(5) A corporation shall provide the information described in Subsection (4) to the commission at the request of the commission.

(6) A corporation may carry forward a tax credit under this section for a period that does not exceed the next five taxable years if:

(a) the corporation is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the corporation's tax liability under this chapter for that taxable year.

Enacted by Chapter 306, 2012 General Session

59-7-701. Taxation of S corporations -- Revenue and Taxation Interim Committee study.

(1) Except as provided in Section 59-7-102 and subject to the other provisions of this part, beginning on July 1, 1994, and ending on the last day of the taxable year that begins on or after January 1, 2012, but begins on or before December 31, 2012, an S corporation is subject to taxation in the same manner as that S corporation is taxed under Subchapter S - Tax Treatment of S Corporations and Their Shareholders, Sec. 1361 et seq., Internal Revenue Code.

(2) An S corporation is taxed at the tax rate provided in Section 59-7-104.

(3) The business income and nonbusiness income of an S corporation is subject to Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

(4) An S corporation having income derived from or connected with Utah sources shall make a return in accordance with Section 59-10-507.

(5) An S corporation shall make payments of estimated tax as required by Section 59-7-504.

(6) An S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.

(7) A pass-through entity taxpayer as defined in Section 59-10-1402 of an S

corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.

(8) Provisions under this chapter governing the following apply to an S corporation:

(a) an assessment;

(b) a penalty;

(c) a refund; or

(d) a record required for an S corporation.

(9) (a) During the 2011 interim, the Revenue and Taxation Interim Committee shall study the fiscal impacts of:

(i) the enactment of Laws of Utah 2009, Chapter 312; and

(ii) the taxation of S corporations under this part.

(b) On or before November 30, 2011, the Revenue and Taxation Interim Committee shall report its findings and recommendations on the study to the Executive Appropriations Committee.

Amended by Chapter 312, 2009 General Session

59-7-705. Minimum tax not applicable to an S corporation.

The minimum tax provided in Section 59-7-104 does not apply to an S corporation subject to taxation under Section 59-7-701.

Amended by Chapter 312, 2009 General Session

59-7-706. Distribution and credit of revenues.

Revenues collected or received by the commission under this part shall be deposited daily with the state treasurer and distributed and credited as provided in Section 59-10-544.

Amended by Chapter 312, 2009 General Session

59-7-707. Commission rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this part.

Amended by Chapter 312, 2009 General Session

59-7-801. Definitions.

For purposes of this part:

(1) "Unrelated business income" means unrelated business income as determined under Section 512, Internal Revenue Code.

(2) "Utah unrelated business income" means the unrelated business income apportioned to Utah in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

Amended by Chapter 225, 2005 General Session

59-7-802. Taxation of unrelated business income.

(1) An organization which is exempt from taxation as provided in Subsection 59-7-102(1) or Section 59-10-126 shall be subject to the tax imposed by this part on its Utah unrelated business income.

(2) Utah unrelated business income shall be taxed at the rate provided in Section 59-7-104 except that the minimum tax does not apply to organizations subject to the tax under this part.

Amended by Chapter 311, 1995 General Session

59-7-803. Filing returns -- Extension.

(1) An organization subject to the tax imposed by this part shall file a state return on or before the date which the exempt organization is required to file its federal exempt organization business income tax return, including extensions.

(2) If a valid federal extension is filed, the extension shall be considered valid for state purposes and payment of tax shall be made as provided in Section 59-7-507.

Amended by Chapter 311, 1995 General Session

59-7-804. Transition rule -- Net loss carryforwards.

Net operating losses shall be recognized to the extent recognized for federal purposes even if incurred prior to the effective date of this part.

Enacted by Chapter 178, 1994 General Session

59-7-805. Apportionment provisions.

For purposes of this part, only the property, payroll, and sales included in the computation of unrelated business income or directly related to the unrelated business income of an exempt organization shall be included when apportioning income under Part 3.

Enacted by Chapter 178, 1994 General Session